SUMMARY OF DISCUSSION

An interdisciplinary group of anti-poverty advocates convened on July 31, 2015 in association with the American Bar Association Annual Meeting to discuss ways concerned private lawyers and the ABA can engage in helpful and respectful ways to further ongoing and new anti-poverty efforts. Convened by the ABA Commission on Homelessness & Poverty as part of its multiyear initiative (now) titled “Collaborate to Advocate: Lawyers and Communities Working to End Poverty,” the program began with Commission member Martha Bergmark, the Executive Director of Voices for Civil Justice, discussing the goal of the ABA anti-poverty initiative: to identify and help promote and implement best practices for eliminating legal and justice system-related policies, practices and procedures that unfairly perpetuate or worsen the harmful effects of poverty on low-income people and communities. (For more information about the initiative, see http://www.americanbar.org/groups/public_services/homelessness_poverty/poverty_initiative.html.)

John Bouman, president of the Sargent Shriver National Center on Poverty Law (located in Chicago, IL), framed the discussion and briefly introduced each panelist:

Rene Heybach, senior counsel of the Law Project of Chicago Coalition for the Homeless, discussed the critical role movements of people—such as the Black Lives Matter campaign—play in promoting systems change. Heybach also discussed the important role of direct legal services, explaining how the Chicago Coalition for the Homeless provides representation to people experiencing homelessness on an array of issues and leverages partnerships with law firms to increase capacity as well as secure coverage for legal issues outside the scope or capability of their services (noting a recent class action lawsuit on the education rights of homeless children). Heybach emphasized the importance of having a regular partner assigned to coordinate work between lawyers volunteering from a law firm and the community organization or nonprofit client. Lastly, Heybach discussed the importance of legislative advocacy, noting efforts led by the
National Law Center on Homelessness & Poverty to promote a human right to housing and combat the ongoing criminalization of homelessness.

Julie LaEace, director of pro bono legal services at Kirkland & Ellis LLP, echoed Heybach’s remarks by highlighting a recent class action involving youth in foster care who are pregnant or parenting. Kirkland’s pro bono involvement in the lawsuit resulted in staving off proposed cuts that would have dismantled this critically needed program. LaEace underscored the importance of longterm partnerships between legal services programs and large law firms as a highly effective approach to impact litigation and systems change.

Larry Wood, director of the housing practice group at LAF, discussed his organization’s assistance of residents of subsidized housing facing eviction. Wood noted that statistics show that the majority of individuals who go to court unrepresented will ultimately lose, while 75% of those with legal representation will win. This shocking statistic underscores the important role lawyers can play in eviction court. Wood went on to explain the difficulty individuals encounter in court in terms of understanding the proceedings and judgments, and proposed that a protocol for judges to explain all judgments in plain English would be a tremendous service to all litigants—and particularly those who are unrepresented. Wood also suggested that the ABA consider advocating for changes to the rules of civil procedure that would require judges to confirm that litigants understand proposed orders that are being entered by “agreement” with unrepresented tenants. Lastly, Wood underscored the importance of court recording devices as a mechanism to secure transcripts after proceedings in which mistakes were alleged.

Jacqui Bowman, executive director of Greater Boston Legal Services and member of the ABA Standing Committee on Legal Aid and Indigent Defendants, echoed Wood’s remarks regarding the important role lawyers can play in eviction court, noting successful right to counsel pilot programs in Massachusetts. Bowman went on to note a Bar Foundation study that determined that 90% of evictions were prevented or delayed thanks to legal representation. Bowman explained that while communities have successfully established pro bono panels for domestic violence survivors through partnerships with law firms, it is challenging to launch a similar program for those facing eviction given the difficulty in mobilizing pro bono legal assistance quickly given the typical eviction timeline. Bowman proposed a number of suggestions to address these issues, including: a guide book for judges (noting that while most judges in specialty housing courts are well versed in the common issues and understand the importance of ensuring those who are unrepresented fully understand the proceedings, judges in other courts might benefit from a guide book on the issues), and greater legal aid (from legal services or pro bono partners) for both landlords and tenants onsite at the courthouse (e.g., set up two tables staffed by legal aid attorneys/pro bono lawyers—one for tenants, and one for landlords). Bowman also discussed the critical need for legal counsel to explain the collateral effects of plea bargains, including potential for eviction from public housing and potential negative impact on disclosures required on job applications. Lastly, Bowman underscored the critical need for increased legal assistance by highlight the staggering statistic that LSC-funded programs turn away six of every ten individuals who seek assistance due to funding and capacity issues.
Ted Small, Chair of the ABA Commission on Homelessness & Poverty, commented on how the suggestions about ways private lawyers, the ABA and other anti-poverty advocates can collaborate to address poverty will assist the Commission as it convenes anti-poverty roundtables around the country to promote such collaboration. The goal of each anti-poverty roundtable is to include a new, unique perspective from local communities combatting poverty to develop an online “quilt” of anti-poverty ideas strategies. These suggested strategies could be implemented by other communities who in turn share their own strategies to combatting poverty, creating a resource for all communities to use in addressing poverty. (To view the online Anti-Poverty Quilt, see http://www.americanbar.org/groups/public_services/homelessness_poverty/poverty_initiative/quilt.html.)

Mary Ryan, chair of the ABA Standing Committee on Pro Bono and Public Service and partner in the Litigation Department of Nutter in Boston, MA, provided additional statistics from the Boston Bar empirical study (conducted with the support of an accounting firm as well as a policy think tank) examining evictions that determined that for every $1 you spend on a lawyer—compared to special education or shelter, etc.—you save $3-4.

John Bouman, president of the Sargent Shriver National Center on Poverty Law, discussed a number of ways lawyers can play a role in addressing poverty, leading off with suggestions as to how transactional lawyers could be used for pro bono programs related to housing development, tax credits, and contract negotiation. Next, he discussed the issue of mass incarceration and suggested how lawyers could play a role in legislative advocacy aimed at sentencing reform as well as removing barriers to professional licenses. Bouman discussed viewing mass incarceration and its effects through a civil rights lens and suggested collaboration with the EEOC and City Civil Rights Offices to address the overuse of criminal background checks to exclude people from housing and employment. He also noted that lawyers can play a role in addressing these issues through litigation.

Bouman also discussed the importance of engaging lawyers in efforts to expunge and seal records, noting this can be accomplished on an individual case by case basis as well as through legislative advocacy such as “ban the box” bills. Lastly, Bouman discussed how many people are burdened with criminal records as a result of a plea bargain—underscoreing the fact that many people were unaware of the collateral consequences of the plea bargain.

Dr. Travis Gayles, research fellow and clinical instructor at the Gender, Sexuality and HIV Prevention Center based out of Lurie Children’s Hospital in Chicago, explained how the various issues that have been discussed thus far affect health. Dr. Gayles led off with the comment that despite significant advances in HIV detection and prevention, certain populations continue to have high rates of HIV/AIDS. He asked the group why that might be—asking if they thought it was prompted by stigma or lack of healthcare—and went on to debunk myths by explaining how socioeconomic marginalization is the greatest factor. Dr. Gayles discussed how poverty influences and shapes all decisions—explaining that healthcare simply isn’t a priority when
employment, housing and finances are unstable. He went on to discuss in greater detail the neuro immunology factor by explaining how stress impacts all areas of your life—including your health. Next, he emphasized the importance of preventive health and encouraged greater financing for policies and services that focus on preventive health measures. Top among the list: connecting the dots between employment policies (such as sick leave) and preventive healthcare (noting the importance of proactively addressing current as well as potential health issues prior to reaching crisis point).

Myles Lynk, immediate past chair of the ABA Section of Civil Rights and Social Justice and professor of law at Arizona State University, underscored the important role lawyers can play in addressing poverty through pro bono legal service—noting ABA Model Rules of Professional Conduct 6.1: Voluntary Pro Bono Publico Service—“Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.” Lynk noted the role the ABA can play (as an association) to not only equip lawyers to address poverty in their community, but also to engage and inspire lawyers to do so.

It was noted that parallel conversations are happening (with regards to youth, among other issues) with corporations in an effort to foster greater collaboration and funding for effective programs. Heybach mentioned Chase Bank’s support of community education regarding the right to education for homeless children and youth (in IL), and Bowman mentioned that Staples is supporting efforts in Massachusetts—noting, however, that some corporations are more inclined to support housing or supportive services as opposed to legal services.

With regards to the important role lawyers can play in legislative advocacy, Heybach discussed how a group of local lawyers provide pro bono assistance by researching all new legislation impacting education. Heybach underscored how this research, tracking and guidance provides critically needed support to advocacy efforts. She also noted how this sort of pro bono activity—legislative research—would likely appeal to most lawyers regardless of their practice area and expertise.

Building on the previous comments made by Heybach, John Bouman discussed how pro bono attorneys from Kirkland & Ellis LLP collaborated with Bouman and his colleagues to jointly review the Affordable Care Act to discuss its implications and develop advocacy and implementation strategies.

Renato Izquieta, an attorney with Legal Aid of Orange County and member of the ABA Standing Committee on Legal Aid and Indigent Defendants (and formerly a member of the Commission), discussed another model for expanding legal services through an incubator style program that will house 30 new attorneys who will receive top-notch training and provide 500 hours of legal aid during their tenure (as well as fostering a lifelong commitment to pro bono).
Moderator John Bouman shifted the conversation to how to successfully engage and collaborate with non-lawyer service providers, advocates—and perhaps most importantly, clients. More directly: how do you insert yourself into ongoing efforts in a respectful way? Bouman noted that some issues naturally lend themselves to such interdisciplinary and interpersonal collaboration—such as subsidized housing issues where the community/tenant organizer is effectively your client. Bouman described how private lawyers can utilize their corporate law skills to assist housing groups negotiate to maintain affordable housing units which are otherwise being converted into private housing units when the terms of HUD financed mortgages have expired.

Participants agreed that engaging the non-lawyer providers/advocates as well as individuals experiencing poverty are critical to the success of any effort. Participants underscored the success of a “train the trainers” approach, noting that clients are oftentimes the best community organizers and advocates for their issue; the role of the lawyer can sometimes simply be educating and equipping the clients. Participants agreed that the Black Lives Matter campaign illustrates the power of the client/individual to be the most effective advocate for a cause.

Commission Chair Ted Small concluded the discussion by thanking the participants for their thoughtful and thought provoking comments and suggestions—emphasizing how their practical proposals will inform the work of the Commission moving forward and committing to sharing the helpful information on the Commission’s site and at future roundtables. Chair Small highlighted how the ten manifestation of poverty areas are interrelated, and emphasized that while lawyers can play an important role in addressing poverty, it will ultimately take an interdisciplinary and community-wide approach to successfully address poverty. (For more information about the Commission’s anti-poverty initiative, see http://www.americanbar.org/groups/public_services/homelessness_poverty/poverty_initiative.html.)