Philadelphia Bar Association (Reports No. 10H)

RESOLVED, That law schools are strongly encouraged to develop pro bono/public service programs as components of their skills training curricula or programs and to exchange information about such pro bono/public service programs through the Section of Legal Education and Admissions to the Bar. The Section shall work with other interested entities, including the Standing Committee on Lawyers' Public Service Responsibility, the Philadelphia Bar Association and other interested bar associations, and the Judicial Administration Division to receive suggestions with regard to such programs and to inform these entities and associations about such programs in law schools and those being developed.
REPORT

Why Combine Skills Training and Pro Bono in Law School

Our profession, the Judiciary and the public are not satisfied with some aspects of the performance by our profession nor with its meeting the challenge of providing legal services for those who cannot afford private counsel. The Code of Responsibility and the Model Rules of Professional Conduct urge lawyers to provide free legal services for the indigent and other worthy causes. The crisis confronting the legal system is well-documented. But, we should not limit our sights to only those who are already in practice to provide skills training for new graduates and pro bono representation for the needy.

Only the ABA can provide a unified voice and the necessary leadership to encourage the necessary changes in law school education.

The Need for Skills Training in Law Schools

Almost two thirds of all practitioners are either solo or small firm or not in the large firm setting where skills training is more likely to occur. They can go from law school to practice with a dearth of skills training through no fault of their own. We hear from all segments of the legal community including, in particular, the Judiciary, that there appears to be a serious need for a change in how we prepare our students for lawyering.

Combining Skills Training and Delivery of Pro Bono/Public Service

We must begin through the law school education process to instill a pro bono ethic which will last a lifetime, develop skills in real life settings through internship and residency, all supervised through the law schools and in cooperation with private practitioners and public interest entities. This combining of skills training and pro bono has a distinct educational and cost advantage rather than implementing these interrelated, desirable goals separate from each other.

Dean Robert J. Reinstein, Temple University School of Law supports this Recommendation; in particular the need for standards and supervision.

Dean John R. Kramer of Tulane University Law School also supports this Recommendation. In fact, Tulane Law School was the first and is one of the nine law schools which have a pro bono graduation requirement.

Since 1980, government funding for legal service lawyers has declined in real dollars by more than 50%. Yet, we pay our public service lawyers half of what they would be making if they do accept jobs in private firms for which they are qualified.
The 1993 Report of the ABA Coordinating Committee on Legal Education has identified "learning by doing" programs as deserving of additional emphasis in legal education; that a mentoring system is desirable and the development of a Model Curricula for students interested in a certain area of practice is also desirable.

The Report of the Task Force on Law Schools and the Profession encourages a review of law school curricula and interaction with practitioners and faculty. Further, it states that law schools have demonstrated their capacity to teach effectively skills and values previously considered learnable only through post-graduation experience and practice. But, it does not support it as a standard for a law school curriculum.

The American Bar Association has a special interest in such proposals because they help to bridge the gap between law school and practitioners and between law school faculty members and practitioners. Moreover they are consistent with ABA support for competent lawyering and pro/bono public service.

According to the ABA Task Force on Solo and Small Firm Practitioners completed in 1991, 84% of all lawyers in the United States are not in private practice or are practicing in firms of less than 20 lawyers. Accordingly, the ABA, with a House of Delegates which represents more than 95% of all lawyers in this country through its elected State and local bar representatives, requires us to lead the profession in meeting the challenges of narrowing the gap between the law school experience and the practice world and to expand legal services for the poor.

From these statistics, it is clear and the Report of The Task Force on Law Schools and the Profession confirms, that many attorneys do not have an opportunity to receive adequate skills training and most do not practice in a law firm setting which provides such training for its associates.

Pro Bono/Public Service in Law Schools

The Standing Committee on Lawyers' Public Service Responsibility is exploring its belief that more can and should be done during the law school experience to expose future lawyers to public service work and the areas in which it is critically needed.

The ABA Law Student Division supports pro bono/public service requirements in law school.

Only 20% of practicing lawyers actually participate in pro bono publico. Further, the poor do not deserve malpractice nor should we allow a system to invite it. Few law schools across the country have adopted a requirement that their students perform a certain amount of pro bono/ public service before they can graduate. Some
have outstanding clinical program requirements. Together, there are only twelve such law schools.

Why a Model Curriculum

By developing a model curriculum, we can create a program which teaches the nuts and bolts of practice and at the same time teaches the ethic of pro bono and helps to meet the unmet legal needs of the indigent. But this cannot happen without some uniform components in the law school curriculum and supervision by faculty and experienced practitioners.

By developing a model program first, we will be following our Association's process of setting forth policy recommendations which have been developed and evaluated by the broadest possible constituencies of our profession.

A Partnership for Consensus on Change

Rather than attempt to determine specifically what those components might be, this recommendation asks for a model curriculum to be created by a partnership of the ABA, the law schools, the Judiciary and the public and private bars of the Profession.

Law Students should have a part in this process. Their views are necessary to help develop and evaluate the model programs. The Task Force in its report suggests an exchange of views with law students on skills and values.

Law school(s) will volunteer to be the site for developing and evaluating this initiative to combine law school skills training and pro bono before recommending it. It will be only a model but one on which we can strengthen lawyering skills and the reputation of our profession for excellence and service to the community.

Much of the debate on pro bono has centered on whether or not it is "mandatory" or "voluntary". This recommendation would go far to place the emphasis on the ethic of pro bono being instilled as part of the educational process and hopefully lead to a focus on public service as opposed to continuing the focus on mandatory or voluntary requirements. Every law student will have provided some pro bono service. Further, by utilizing and adapting the internship and residency concept (the medical school model) as part of this initiative, we will be placing our law students in the real world of law practice, but we will be supervising them appropriately to meet the standards for approval of law schools of their educational programs as set forth by the ABA.

The use of practitioners as both mentors and cooperative partners in the internship and residency, along with the practitioners in the public sector, would help train future generations of attorneys
and define the profession for the 21st Century to realize the goal of "Justice for All".

Why Include the Judiciary

The judiciary of the Federal and State benches have a special place in the development of a model curriculum. Indeed, the State judiciaries may very well seek to require uniform skills training, internship and residency and pro bono as part of the eligibility to sit for the bar exam. The federal judiciary has an equally important concern in the quality of lawyering and the need to provide appointed counsel for those who are eligible.

Sharing The Burden

A partnership between the private and public bars and our law schools to establish clinical, legal education as a national standard, (very much like the medical school internship/residency concept that plays such an important role in educating our Nation's doctors and meeting the health needs of our poor), would meet both needs at one time. The community, the practitioners and the law schools would be the "teaching hospital" for law students in their third year. The concept of mentoring would be in the professional oversight which such a program would receive from not only the faculty, as an accredited course, but from experienced practitioners. Together, they could institutionalize skills training and the pro bono ethic at the early stage of an attorney's training and provide the value of literally hundreds of thousands of dollars of advocacy for the indigent.

We must share the responsibility of preparing our future attorneys and of delivery of service to the poor. We cannot ask more from the law schools if we are not willing to contribute. Therefore, we also must share the burden of the costs. Lawyers will need to become part of the internship and residency proposal if it is to succeed. In the long term, we will be saving the costs of post graduate skills training; the time invested in revising new attorneys' work product and increasing the quality of life for all Americans by working to eliminate the legal ills of the poor which are engulfing our nation and our neighborhoods.

Long Term Goals Need to be Developed and Implemented.

Based on the foregoing, the Philadelphia Bar Association requests the House of Delegates to adopt the attached resolution to initiate the development of a model for law school curricula which would combine skills training and pro bono/public service in the form as substantially outlined herein at a law school(s) accredited by the ABA which shall voluntarily offer to participate in this initiative. No law school would be required to participate in the development or evaluation of this model. We request that this
initiative be completed no later than 1996 for presentation to the House of Delegates for further action as required.

The need is urgent.

Law students need skills training in supervised, substantive, real settings. Homelessness, disease, discrimination and abuse of the impoverished, and the poor who are children, minorities and the aged have waited too long.

We need to help solve these crises for the long-term. The need will always be with us.

We need to institutionalize these remedies for the good of the public and the profession.

We believe that by testing such concepts in the real environment of law school and community, we also will be serving well our clients and society and not just polishing our image but substantively strengthening our profession.

Respectfully submitted,

Arlene Jolles Lotman
ABA House of Delegates
Philadelphia Bar Association

Robert W. Landis, Esquire
State Delegate, Pennsylvania

August, 1993
GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(If necessary)

To: Pennsylvania Bar Association

Submitted By:  Arthur J. Tesoro, Esquire, ABA House of Delegates

1. Summary of Recommendation(s). Under the leadership of the ABA, develop and evaluate a model program for a law school curriculum which will combine skills training with pro bono/public service at a law school which volunteers to participate in developing this model.


3. Has this or a similar recommendation been submitted to the House or Board previously? Do not know.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption? Association policies support pro bono. SCLPSR is interested in pro bono as part of law school curriculum. The Coordinating Committee on Legal Education and Section of Legal Education and Admissions to the Bar are interested in skills training and Legal Education. Would have a positive effect on stated policy and goals.

5. What urgency exists which requires action at this meeting of the House? (a) The need for skills training is acknowledged as an urgent matter. (b) Pro bono/public service availability has been in a state of crisis due to cuts in funding; relief is past due. Action now will ensure immediate attention to addressing these two, interrelated issues in one combined program.

6. Status of Legislation. (If applicable.) N/A

7. Cost to the Association. (Both direct and indirect costs.) Unable to be estimated. Law school which have programs with some of the components of this model curriculum have already funded them. ABA would incur some expenses as it provides oversight for the development of the model.

8. Disclosure of Interest. (If applicable.) None of which are presently aware.

9. Referrals. This recommendation/report was sent to the following:
ABA Board of Governors
National Association of Public Interest Lawyers
Standing Committee on Solo and Small Firm Practitioners
Young Lawyers Division
Mark H. Tuohy, III, Esquire
J. Pennington Straus, Esquire
Section of Litigation
Law Student Division
Section of Legal Education & Admissions to the Bar
YLS, Philadelphia Bar Association
Honorable Norma L. Shapiro
10H  Standing Committee on Legal Education  
Coordinating Committee on Legal Education  
Association of American Law Schools  
Section of Tort and Insurance Practice  
Division for Public Services  
National Bar Association  
Hispanic National Bar Association  
National Asian Pacific American Bar Association  
Deans of all ABA-Accredited Law Schools  
State and Local Bar Associations represented in the House of Delegates  
Judicial Administration Division  

10. **Contact Person.** (Prior to the meeting.) Arlene Jolles Lottman, Esquire, (215) 569-5614, 1200 Four Penn Center Plaza, Philadelphia, PA 19103, Fax # (215) 569-5555.  

11. **Contact Person.** (Who will present the report to the House.) Same as number 10, but subject to change.  

12. **Contact person Regarding Amendments to This Recommendation.** (Are there any known proposed amendments at this time? If so, please provide the name, address, telephone, fax and ABA/net number of the person to contact below.) Same as number 10. No known amendments at this time.