RESOLVED, That the American Bar Association, along with other national, 1
state, territorial and local bar associations are strongly urged to make the 2
expansion of pro bono legal services by practicing lawyers a critical priority. 3

FURTHER RESOLVED, That these bar associations are encouraged to 4
develop effective and innovative strategies to promote pro bono service and to 5
allocate sufficient bar resources to ensure that these strategies can be effectively 6
implemented. 7

FURTHER RESOLVED, That in developing these strategies, bar associations 8
should coordinate with legal services providers and pro bono programs. 9

FURTHER RESOLVED, That in developing these strategies, bar associations 10
should consider including the following activities: 11

1. Advocating for the adoption of Model Rule of Professional Conduct 12
   6.1 (Voluntary Pro Bono Publico Service) (revised 1993) as part of 13
   state ethics rules; 14
2. Adopting a voluntary or mandatory mechanism for bar members to annually report the type of *pro bono* service performed, the number of *pro bono* hours rendered and any financial contributions made to legal services and *pro bono* organizations;

3. Encouraging candidates for bar leadership positions to demonstrate their record of support for *pro bono* and legal services through *pro bono* service, service on the board of a *pro bono* or legal services organization or other relevant activities;

4. Encouraging and assisting large law firms, corporate law departments, government agencies and law schools to adopt policies that promote and facilitate *pro bono* participation; and

5. Creating or enhancing a standing bar committee on *pro bono* service that, in cooperation with bar officers and with the assistance of bar staff develops a comprehensive long-range plan for increasing the availability of *pro bono* and other free legal services, and ensures that legal services and *pro bono* issues are identified as critical bar priorities.
I. Background

There is no doubt that a crisis exists in the delivery of legal services to the poor in this country. Since 1983 at least 13 states have conducted studies of the legal needs of the poor and the consistent finding has been that only 15%-20% of the poor's legal needs are being met. The most recent national legal needs study conducted by the American Bar Association concluded that during one year, nearly half of all low-income households in the country face situations that raise a legal issue. Nearly three quarters of those situations do not find their way to the justice system, a principal reason being people's fear that the cost of seeking legal assistance will be prohibitive. While these statistics are daunting, they are likely to increase greatly in the coming year. This is the case because the very existence of the Legal Services Corporation (LSC), which funds 323 programs nationwide to provide free legal services to the poor, is being threatened by Congress. Even if LSC is not eliminated, it is likely that funding cuts will occur that will make it impossible for these staff model legal services programs to serve even their current number of clients. In addition, because in many areas of the country the administration of pro bono programs is funded exclusively by LSC, the delivery of pro bono legal services will also be curtailed by these anticipated funding cuts.

II. Discussion

Given the mounting crisis that exists in the delivery of legal services to the poor, it is incumbent upon the American Bar Association, other national bar associations, state bar associations and local bar associations to develop strategies for engaging more practicing lawyers in the delivery of pro bono legal services to persons of limited means. While the private bar cannot be expected to fill the gap that currently exists in the delivery of legal services to the poor and which will be greatly increased if LSC funding cuts are effectuated, bar associations can take steps to attempt to increase the amount of pro bono services currently being provided.

To increase these critical services effectively, bar associations should work cooperatively with existing legal services and pro bono programs. Staff of such programs can provide a wide range of valuable information to the bar regarding: the existing legal needs of the poor in given localities, development of effective models for the delivery of pro bono legal services, the training and support needs of volunteers, and strategies for gaining access to and acceptance by client communities.
addition, to the extent that existing legal services and pro bono programs continue to function in some form, it is critical that any efforts to further engage the private bar in pro bono service be coordinated with these existing resources so that there is a unified delivery system.

There are a wide range of activities that bar associations should consider when developing their strategies for increasing pro bono participation by practicing lawyers. One is to advocate for the adoption of Model Rule of Professional Conduct 6.1 (Voluntary Pro Bono Publico Service), as revised in 1993 (hereinafter "Rule 6.1"). The revisions, while maintaining the voluntary nature of the rule, add specificity regarding the amount of pro bono work lawyers should aspire to perform (50 hours annually, with variation in the number of hours permitted by each state implementing the rule). In addition, Rule 6.1 urges all lawyers to provide a substantial majority of their pro bono legal services to persons of limited means, and it furnishes a clearer definition of what constitutes pro bono work.

Bar associations are urged to seriously consider advocating for the adoption of Rule 6.1 because by doing so, they can focus lawyers' attention on their pro bono responsibility, which is likely to lead to greater participation in pro bono work. In addition, law students who study the Model Rules will be provided with a definite annual standard and a more refined definition of pro bono service which is likely to instill in them a clearer understanding of their professional responsibility.

Another activity that bar associations should consider when developing their strategies for expanding pro bono efforts is the implementation of a voluntary or mandatory mechanism for bar members to annually report the type of pro bono service performed, the number of hours of pro bono service rendered and any financial contribution made to pro bono or legal services organizations. While some may be bothered by the notion of requiring or requesting the completion of additional paperwork, there are real benefits to reporting that should be explored. It can certainly be used to educate members of the bar regarding the annual need for free legal services and remind them of their professional responsibility to help meet that need. It can also lead to an increase in pro bono service and financial contributions by practicing lawyers. In Florida, which is the only state to have implemented mandatory reporting to date, a 1995 report by the Florida Standing Committee on Pro Bono Services concluded that:

Even as the required reporting continues to generate debate within the Bar, individual attorneys overwhelmingly responded to the need for accurate information on the lawyers' efforts to address the access needs of the poor and produced over $121,000,000 worth of reported pro bono service in only its first
Because it is necessary to develop new sources of pro bono participation, bar associations are encouraged to examine whether lawyers in certain types of practice such as government, corporate and large law firm practice are taking part in pro bono work in meaningful numbers in their localities. If they are not, bars should encourage that participation when developing strategies for increasing pro bono activity. One of the most effective methods for encouraging this participation is the adoption of policies by law firms, government agencies and corporations that promote and facilitate the provision of pro bono service by attorneys employed by those entities.

Institutionally, there are steps that bar associations can take that will demonstrate their commitment to the expansion of pro bono legal services. Such steps are necessary because if a bar intends to request that its membership increase its pro bono participation, the bar itself should set the example. A vital one is for a bar association to allocate sufficient resources to ensure that it can effectively implement any strategies that are developed for increasing pro bono activity. In addition, bars should consider creating or enhancing a standing committee on pro bono service to develop a comprehensive long-range plan for increasing the availability of pro bono and other free legal services to the poor. Such a committee should be properly staffed to enable its work to be accomplished.

Bar associations should also consider encouraging candidates for bar leadership positions to demonstrate their record of support for pro bono and legal services through activities such as pro bono service or service on the board of a pro bono or legal services organization. By doing so, the bar will make clear that a commitment to pro bono and legal services is something that it values.

There are many other activities that bar associations may want to consider in developing their strategies for expanding pro bono participation including: working with law schools to ensure that students have pro bono opportunities, heightening the visibility of pro bono within the bar by including pro bono and legal services issues on a regular basis in bar publications and bar meetings, requiring bar sections and committees to develop plans for pro bono activities, involving the judiciary in supporting pro bono and providing financial incentives for pro bono service and full-time public interest practice. Bar associations dedicated to increasing pro bono work will undoubtedly be able to develop many more innovative ideas to engage their members in helping to meet the overwhelming need that exists.

III. Conclusion
The current crisis in the delivery of legal services to the poor, coupled with the assault in Congress on the Legal Services Corporation, makes it incumbent upon bar associations at the national, state and local levels to develop strategies for increasing pro bono participation by practicing lawyers. To do so effectively, bars will need to work in coordination and cooperation with existing legal services and pro bono providers. They will also need to consider a wide range of activities that they can engage in including advocating for the adoption of Model Rule 6.1, adopting a mechanism for the reporting of pro bono activity by bar members, encouraging large law firms, corporate law departments and government agencies to adopt pro bono policies and creating or enhancing a bar standing committee to address pro bono issues. Bars must be willing to commit sufficient funds to carry out these activities, but given what is at stake - equal access to justice for all Americans - we are certain that those resources can and will be made available. Accordingly, we urge adoption of the Resolution accompanying this Report.

Respectfully submitted,

David C. Weiner, Chair
Section of Litigation

James L. Baillie, Chair
Standing Committee on Lawyers’ Public Service Responsibility

August 1995


3. In New York, for example, 50 of the state's 62 counties rely exclusively on legal services funding for the administration of their pro bono programs. New York Steering Committee to Preserve the Legal Services Corporation, *The Legal Services Corporation - It Works for New York and It Deserves Support* (1995), pg. 4.

4. Model Rule of Professional Conduct 6.1 (Voluntary Pro Bono Publico Service) reads as follows:

   A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

   (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
   (1) persons of limited means or
   (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

   (b) provide any additional services through:
   (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in
matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate; (2) delivery of legal services at a substantially reduced fee to persons of limited means; or (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

5. The Standing Committee on Pro Bono Service, Report to the Supreme Court of Florida, The Florida Bar and The Florida Bar Foundation (1995), page 13. It should also be noted that Kentucky, Texas and Maryland have implemented voluntary reporting of pro bono activities, and several other states are considering it.
GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on Lawyers' Public Service Responsibility (SCLPSR) and Section of Litigation

Submitted By: James L. Baillie, Chair, SCLPSR and David C. Weiner, Chair, Section of Litigation

1. Summary of Recommendation(s).

This resolution urges the ABA, other national bar associations, state bar associations and local bar associations to make the expansion of pro bono legal services by practicing lawyers a critical priority for the bar and to develop effective and innovative strategies for promoting pro bono activities. Bars associations are urged to work in cooperation with existing pro bono and legal services programs in developing their strategies and to devote sufficient resources to ensure that such strategies can be properly implemented. In addition, the resolution suggests several activities that bars should consider in developing their pro bono strategies.

2. Approval by Submitting Entity.

SCLPSR approved the resolution via a telephone conference call on May 22, 1995. The Section of Litigation Council approved the resolution on January 7, 1995.

3. Has this or a similar recommendation been submitted to the House or Board previously?

This resolution or a similar one has not been submitted previously to the House of Delegates or the Board of Governors.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

In February 1984 the ABA House of Delegates adopted a resolution calling upon state and local bar associations to work cooperatively with providers of legal services to indigent persons "to the end that those services may also be provided by members of the bar generally in such ways and to such degrees as may be agreed upon by those agencies and the organized bar in the areas served by them." In addition, in February 1993 the House of Delegates adopted revisions to Model Rule of Professional
Conduct 6.1 which added more specificity to the definition of pro bono, an annual standard for pro bono service and an emphasis on service to persons of limited means. Adoption of this resolution would further these policies previously adopted by the ABA on pro bono service.

5. **What urgency exists which requires action at this meeting of the House?**

A crisis exists in the delivery of legal services to the poor in this country. Numerous state legal needs studies have been conducted that have found that only 15% -20% of the legal needs of the poor are being met. The situation is likely to worsen severely in the next year due to threatened substantial reductions in funding for the Legal Services Corporation.

6. **Status of Legislation.** (If applicable.) Not applicable.

7. **Cost to the Association.** (Both direct and indirect costs.)

At this time it is impossible to determine if there will be costs to the ABA associated with the adoption of this resolution. Much will depend upon the types of strategies developed by the ABA to increase pro bono participation by practicing lawyers. If the strategies developed do require substantial funding, it is possible that funding might be obtained from foundations and other non-ABA sources.

8. **Disclosure of Interest.** (If applicable.) None.

9. **Referrals.**

Concurrently with the submission of this report to the ABA Policy Administration Office for calendaring on the House of Delegates' agenda, it is being referred to:

- All ABA Sections, Divisions and Committees
- American Immigration Lawyers Association
- The Federal Bar Association
- Hispanic National Bar Association
- National Asian Pacific American Bar Association
- National Association of Criminal Defense Lawyers, Inc.
- National Association of Women Lawyers
- National Bar Association, Inc.
- Native American Bar Association
10. **Contact Person.** (Prior to the meeting.)

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11. **Contact Person.** (Who will present the report to the House.)

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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.)

There are no known amendments at this time.