

DIALOGUE

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From the Chair...

By *A. Michael Pratt*

Standing Committee on Pro Bono and Public Service

The Standing Committee on Pro Bono and Public Service recently sponsored the 2010 Equal Justice Conference in Phoenix, Arizona. In light of the recent, controversial immigration law passed in Arizona, the issue of immigration policy and implementation was very much present at the conference. The ABA was able to provide an amazing and invaluable opportunity for attendees to learn about the immigration problem we have in America and about the litigation and policy advocacy opportunities that are available to help fix a system that is so obviously broken.

We were supported in our immigration programming efforts at the conference by the ABA's Commission on Immigration. Karen Grisez, the Commission's Chair, was particularly helpful in helping to develop immigration-related programming and in presenting during the closing plenary session. Through the work of the Commission, there are multiple opportunities for lawyers to engage in pro bono work to help address many of the legal issues faced by immigrants in our country. I encourage you to visit the Commission's website at www.abanet.org/immigration to learn more about their work. With immigration issues so much in the news, I want to highlight some of the existing volunteer opportunities for those interested in working in this critical area of legal need.

The South Texas Pro Bono Asylum Representation Project (ProBAR) is a national effort to provide pro bono legal services to asylum seekers detained in South Texas by the United States government. The project, started 20 years ago, recruits, trains and coordinates the activities of volunteer attorneys, law students and legal assistants. ProBAR is a joint project of the American Bar Association, the State Bar of Texas and the American Immigration Lawyers Association.

Every year, hundreds of asylum seekers are detained by the Immigration and Customs Enforcement in South Texas. They have fled civil war, ethnic fighting and religious and political persecution. Most have little, if any, money by the time they arrive in the United States and are not able to hire counsel or post the substantial immigration bonds required for release.

Having language barriers, little understanding of U.S. law and court procedures, and few financial resources, they face almost insurmountable obstacles to proving their asylum claims. As a result, many risk being deported back to places where they may face persecution and even death based upon their race, religion, nationality, political opinion, or membership in a particular social group. The responsibility has fallen on the private bar to offer legal assistance to these individuals. ProBAR provides the means by which the legal community can respond.

ProBAR is directed by an attorney coordinator located in Harlingen, Texas. The project works closely with local community based programs, the immigration court, and the organized bar to identify detained asylum seekers who have strong claims to asylum or other relief under U.S. law but, owing to indigence, cannot afford to hire private counsel.

The ProBAR coordinator matches asylum applicants requesting counsel with

attorney volunteers who are available to travel to Harlingen to represent them. The coordinator discusses each case with the volunteer and provides support and guidance throughout the progress of the case. To the extent available, each attorney also is assisted by a volunteer law student, interpreter or legal assistant.

In early 2008, the ABA launched the Immigration Justice Project of San Diego (IJP) as a pro bono immigration pilot project pursuant to a seed grant from the ABA Enterprise Fund. The mission of the IJP is to promote due process and access to justice at all levels of the immigration and appellate court system, through the provision of high-quality pro bono legal services for those in immigration proceedings in San Diego. Partnering in the project are several ABA entities (Commission on Immigration, Standing Committee on Federal Judicial Improvements, Section of Litigation, Standing Committee on Pro Bono and Public Service, Judicial Division), the Executive Office for Immigration Review (EOIR), the federal courts, Georgetown University Law Center's Institute for the Study of International Migration (ISIM), the American Immigration Lawyers Association, and the private bar. The IJP serves both detained and non-detained individuals, and recruits, trains, and mentors volunteer attorneys and law students representing clients.

With no right to government-funded counsel and a high indigency rate, many appear in immigration proceedings pro se. The lack of representation has dramatic consequences, particularly for those fleeing persecution abroad or facing separation from family in the United States. The IJP aims not only to increase access to counsel for immigrants, but to benefit the judicial system as a whole; legal representation results in higher appearance rates, and more fair, efficient, accurate, and consistent decision-making. The number of immigration appeals has skyrocketed in recent years, and the lack of representation places a great strain on the federal courts. In addition, "notarios", claiming to be immigration lawyers or specialists who prey upon unsuspecting individuals, are increasingly prevalent in the San Diego area. The IJP aims to expand the scope and quality of representation for those who might otherwise become their victims.

And, the Volunteer Advocates for Immigrant Justice (VAIJ) is a pro bono legal representation project in the Seattle area that offers free legal assistance to detained immigrants seeking asylum or other forms of relief before the immigration courts. VAIJ, a joint initiative of the ABA Commission on Immigration and the Microsoft Corporation is the first formal pro bono legal aid project sponsored by Microsoft.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service, detains over 180,000 immigrants, refugees, and newcomers each year. Some of these immigrants have fled persecution, civil war, ethnic conflict, and religious and political persecution. Upon arriving in the United States, they are placed in detention while their cases are brought before the immigration court. Other detainees include long-time residents of the United States, some of whom have committed minor immigration violations and are being held in detention while their cases proceed through the immigration courts.

Immigrant detainees typically have little if any opportunity or resources to secure representation and, as a result, as many as 90% appear pro se in their immigration legal proceedings. The hurdles are insurmountable to many as they attempt to present their asylum claims or request relief to prevent being removed from the United States. Detainees must present their cases, often despite language barriers and without understanding the laws or procedures that apply to their cases. Should they lose, some will be removed to a country where they may face persecution, even death, or where they may be separated from their U.S. citizen families and homes and be removed to countries where they have not resided in years.

VAIJ matches attorneys in the Seattle area with detained immigrants who have claims for relief, ensuring that detainees receive much-needed representation. VAIJ also gives attorneys the opportunity to learn about immigration law and become involved in the advocacy community.

Those of you who have not seen the issue of immigration as critical to your



work should reconsider. In every community throughout the country, there are individuals who are confronted with the challenges of navigating the incredibly complex immigration adjudication system. Your volunteers can make a difference for these individuals and their families by participating in programs like those described here. Add immigration pro bono to the menu of opportunities you make available to the pro bono lawyers in your community.

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