

# INDIANA PRO BONO COMMISSION

## 2000 ANNUAL PRO BONO REPORT AND PLAN

### INTRODUCTION

In 2000, the first full year of its existence, the Indiana Pro Bono Commission celebrated many accomplishments. Not only has the number of people working towards developing pro bono resources increased exponentially, they are more organized and efficient than ever before. In 2000, the Commission worked diligently to carry out its charge under Rule of Professional Conduct 6.5.

In 2000, the Indiana Pro Bono Commission continued to meet on a quarterly basis in addition to regional and committee meetings in the interim. The Commission consists of 21 members and two ex-officio members. The Commission staff is one Executive Director who works as a consultant on a part time basis. The Original members of the Commission were first appointed in the summer of 1999. This past year, two new members were appointed to replace members who only had one-year terms. There is an Executive Committee of four officers and by-laws are being developed. The Commission's mission was developed from Rule of Professional Conduct 6.5 and is as follows:

To ensure equal access to justice for all citizens regardless of economic status by creating and promoting opportunities for attorneys to provide pro bono civil legal services to persons of limited means.

The first accomplishment in 2000 created an internal structure that ensures the Commission's viability and effectiveness. To develop this structure, the Commission set out to define its role in the development of the district plans. In consideration of the emphasis on local control found in Rule 6.5, the Commission chose to focus on education and support for the local district committees. The Commission then focused on evaluating the district plans and making recommendations to the Indiana Bar Foundation for funding the plans. In addition to this work, the Commission also made significant efforts to educate the legal profession and other community members about the local committees, how they can become involved and how they might affect the direction of the local committee.

### DEVELOPING THE COMMISSION AND DEFINING ITS ROLE

Understanding the magnitude of their tasks, the Commission developed several strategies to ensure its institutional success and viability. First, to coordinate the efforts of 21 volunteer members, the Commission established several working committees. These committees and their focus are as follows:

#### ***Marketing/ Public Relations***

*Responsible for publicity for Commission events and marketing our educational opportunities. Work toward changing the culture in Indiana and raise awareness about the commission, the districts and their work. This committee will also be responsible for coordinating an annual recognition event and the awards given out at that time.*

#### ***Website/Technology***

*Responsible for making the website useful and responsive to needs of the district committees and pro bono attorneys. Be a clearinghouse for technology to assist districts and providers in their work.*

### ***Coordination and Oversight/Training***

*Responsible for keeping abreast of the different activities or events that are going on in the state and try to assist in coordination of efforts and making sure that the districts stay apprised of developments across the state. This committee will also develop a curriculum of training events with CLE credits for pro bono attorneys on a statewide basis.*

### ***Administrative Budget/Fundraising***

*Responsible for managing expenditures by the Commission and the Executive Director and budget operating expenses and other funds to the Committees.*

### ***Allocations/Evaluation***

*Responsible for establishing criteria and standards for the evaluation of submitted plans and defining the method of allocation of IOLTA funds. This committee will also be responsible for assuring that the district committees are using the money according to their plan.*

Second, the Commission elected an Executive Committee consisting of Hon. L. Mark Bailey, Chair, Richard Komyatte, Vice-Chair, Vicki Bateman, Treasurer, and Phil Burt, Secretary. This Executive Committee has the authority to act on matters when convening the entire Commission would be impractical. Their authority and responsibilities will be addressed in by-laws that are being developed in 2001.

Third, the Commission continued to utilize an Executive Director, Kelly Kann Davidson, to coordinate the efforts of the Commission members. The Executive Director was a contract employee of the Indiana Bar Foundation from July 1999 to July 2000 and paid with a grant from the Supreme Court and the Legal Services Corporation funded programs in Indiana. The Executive Director continues to serve as a consultant and is paid on an hourly basis. This Director staffs the Commission and Committee meetings and accomplishes the directives of the Commission. This Director also gathers information that allows the Commission to evaluate the reports and plans and to identify statewide trends, needs and problems. The Director is qualified to offer assistance, address deficiencies and propose constructive ways to overcome obstacles to providing pro bono services. It is the goal of the Commission to bring pro bono into the mainstream culture of the legal profession. In furtherance of this goal, the Commission is in discussions with the State Bar Association to incorporate the functions of the executive director with the State Bar Structure.

Fourth, to facilitate communication among the Commission members, as well as the district chairs, and the community, the Commission established three Internet listservs. These listservs create an "audience" of recipients for one e-mail, allowing one communication to be "heard" by a specific group. The first list consists of the Commission members and allows all of the Commission members to communicate "privately" without having to meet or send multiple letters or e-mails. This enables the Executive Director or any member of the Commission to send a notice, question, idea or comment to all of the Commission members very quickly. There is also a listserv set up for all of the district chairs (judges) so they can share ideas and pose questions to other Districts about their experiences. The third one is open to everyone who is interested. The hope is that this "forum" will connect a community of people across the state so they can share information and become aware of events or recent developments that directly affect their work or their interest in assisting lower income people.

Finally, to further its own education, the Chair, the Executive Director as well as several members of the Commission and Pro Bono Community attended the ABA Conference on Equal Justice in April of 2000. This

conference provided incredible opportunities to meet and speak with people who are developing programs around the country and learn from their experience. This conference also provides resources that we can share with the local committees to address their particular needs or problems.

With all of this in place, the Commission focused on the broader goals found in Rule 6.5. In this first year, the Commission felt strongly about focusing most of its work on assisting the local districts. Rule 6.5 provided some guidance to them, however, it was important for the Commission to support them in these early stages of committee organization and establishing a foundation for future developments and growth. It was also important to establish a precedent of not directing the districts but rather to compliment their efforts with efforts from the Commission.

## EVALUATING AND FUNDING THE DISTRICT PLANS

The Indiana Bar Foundation is the administrator of the IOLTA program and holds all of the IOLTA funds generated by the lawyers in Indiana. The IOLTA funds have been designated as the source of funding for the district pro bono plans. The Foundation is the grantor of those funds to the district committees. The primary responsibility of the Commission each year is to evaluate the district plans and draft funding recommendations based on those plans. In 2000, the Pro Bono Commission submitted recommendations for the amount of IOLTA money that should be granted to each district. The Indiana Bar Foundation approved those recommendations and the money has been granted to the district committees.

The Commission spent a significant amount of time discussing and designing the evaluation of the plans. The Commission began by looking at the ABA standards for Pro Bono Programs and investigating the experiences of various pro bono efforts around the state and the country. After this research, the Commission developed an evaluation tool to attempt to compare the plans with each other and to determine how effective the plan might be in each community.

This tool considered both the work done to create the plan and the merits of the plan itself. Each district was expected to make inquiries to the community and ask both providers and recipients of services to comment on the current state of the "system" and how it affects them. The districts were asked to identify weaknesses in this system and then propose solutions to resolve the weaknesses. The proposals had to be feasible given the likely funding that would be available. Each district was encouraged to find other funds and get services or hard goods donated. The overall evaluation of the plan was whether it would be effective in increasing resources for lower income people who need legal services.

In anticipation of developing the funding recommendation, the Commission obtained the most recent and accurate projections for the IOLTA account from the Indiana Bar Foundation. The Foundation predicted a total of \$400,000 would be available on January 1, 2001. From this amount, the Commission will pay its operating expenses including the executive director and also reserve some funds. After these subtractions, there was approximately \$300,000 remaining for the Commission to allocate to the districts for 2001.

Initially, the Allocations Committee met and drafted a formula for granting the money. This first proposal was presented to the full Commission for approval. This proposal had several steps. First, award \$5,000 to each district that submitted a suitable plan. Second, divide 70% of the remaining money among the districts in accordance with the percentage of poverty population in Indiana that is located in that district. Third, allocate the remaining 30% to the districts based on the quality of their plan. (Formula attached as appendix A) The Commission reviewed this recommendation for the allocation plan and took it under advisement until the members were able to review all of the plans pursuant to the evaluation tool.

For the initial evaluation of the plans, the Commission members were divided into three regional groups. These regional groups reviewed the plans from a different region and communicated further requests for information to those districts. After allowing sufficient time for revision or additional information, the groups presented their thoughts and comments to the entire Commission. The entire Commission then engaged in the difficult task of determining the level of funding that each plan would be granted in their recommendation to the Indiana Bar Foundation.

Once that review process was complete, on October 13, 2000, the Commission approved the proposed distribution plan for the 2001 grants. The Commission determined that the highest priority this year was to encourage the participation in the development of plans. The stages of development vary from district to district and might include convening committee meetings, communication among the community organizations, recruiting, education, developing resources and hiring a plan administrator. The hope is that each year the district will make progress and can look forward to support, encouragement and funding for the advancement of the purposes in Rule 6.5. As the plans become more detailed and the landscape continues to change, so will the allocation plan and review criteria.

On October 13, 2000, the Commission also authorized the Executive Committee to decide which districts would receive portions of the remaining 30%, or \$69,000. The Executive Committee requested a recommendation from each regional evaluation Committee for one district in their region to receive an additional \$23,000. Each district provided that information and the Executive Committee approved additional funding to Districts 1, 7 and 13. That money was awarded in addition to the money already granted in the first two steps of the evaluation plan.

All fourteen districts prepared and submitted a 2000 Report and Plan pursuant to Rule of Professional Conduct 6.5. The Commission submitted the recommendations and at their October meeting, the Indiana Bar Foundation approved the Commission's recommendations. The Foundation has requested information to allow them to identify the recipient of the check and an entity that will be financially responsible. The money will be distributed on January 2, 2001 or as soon as the Foundation receives the requested information, in accordance with the Commission's recommendations. Many districts have already begun working towards their goals prior to receiving any IOLTA funds. (Recommendations attached as appendix B)

Although the districts each have their own plan, there are many common themes. All of the districts recognize an overwhelming problem of a lack of access to the courthouse for many of the lower income residents of their districts. The most common plan consists of hiring a plan administrator to focus on recruiting and providing services for the pro bono attorneys. Many, but not all of the plans rely on their local legal service provider for identification and screening of the clients. In addition to expanding the number of attorneys participating in pro bono representation, many plans call for the plan administrator to develop community education programs, resource materials and pro se resources. Some of the unique ideas include a class action and special legal needs projects, the development of Hispanic resources, mentoring programs, and a resource room in each courthouse.

#### ASSISTING THE DISTRICT COMMITTEES

In addition to the review and evaluation of the district plans, the Commission has a responsibility to support the work of the district committees and provide the assistance they request. The year 2000 was especially important since many of the participants in this effort were considering these issues for the first time. Although many recognized the need, they were not aware of the significant work being done across the country to address the unmet civil legal needs of the lower income populations.

The Commission members and the Executive Director all have experience and knowledge about serving this population. This experience and knowledge enables the Commission to be a clearinghouse for information regarding the development of their local plans. The Commission has collected many articles, workbooks, manuals and other written resources in its library for use by the districts. This library has both organizational and programmatic resources as well as substantive law resources. A list of these resources is available and will be posted on the Website to allow the districts to "check out" the materials.

Since the Annual Report and Plans were due on June 30, 2000, early in 2000 the Commission wanted to get an idea of how the districts were progressing toward their goal and what the Commission could do to assist them. On March 6, 2000 the Commission sponsored a conference to help the local districts develop their plans. All members of the local committees and the Commission members were invited to share information from the local districts and to learn about resources that are available and what is going on around the country. Steve Scudder, Counsel for the American Bar Association's Center for Pro Bono, attended this conference and presented information on the ABA standards for Pro Bono Programs. He also shared information about other developments and answered technical questions about setting up a program. Nearly every district sent the chair or a representative and several members of the Commission attended as well.

In addition to establishing the listserv for the district chairs to communicate with each other, the Commission has continued to develop its Web site. A calendar function has been added, as well as several resource links and information about each district. The Districts have the opportunity to develop their own sections of the Web site and post their information on it or link to the Commission. The Web site offers the opportunity for community members to read their own community's plan or to browse other plans to compare and get ideas. The Commission Website, found at [www.state.in.us/judiciary/probono](http://www.state.in.us/judiciary/probono), continues to post updated information about the local districts as well as the activities of the Commission. Inquiries can be made via e-mail to the Executive Director directly from the Web site.

To help recruit attorneys for their local districts, the Commission sponsored two CLE training events. These events not only recruited pro bono attorneys for various organizations, it provided the Commission with the opportunity to educate these willing attorneys about the pro bono resources available, the Commission's work and the existence of the local District committees. The first was on Dissolution of Marriage and co-sponsored by the Indianapolis Bar Association's Standing Committee on Pro Bono. Forty-three people attended this event. Thirty-nine of those agreed to do two cases for their local pro bono provider in exchange for the free training. The second event was in September on Immigration issues and was co-sponsored by the Legal Services Organization of Indiana. Sixty-three people attended it and forty of those people agreed to do two pro bono cases for their local programs. Together, these programs have addressed 158 pro bono cases. Both programs received excellent evaluations from the attendees. The local programs appreciated the assistance in recruiting. The generosity of the Indiana Continuing Legal Education Forum also contributed to the success of these programs by allowing the Commission to use their conference facility and assisting with the preparation of training materials.

The Executive Director also accepted several invitations to attend district committee meetings and provided consultation and information to several organizations requesting assistance with developing pro bono programs and pro se programs. When called upon, the Executive Director will continue this assistance to these various organizations.

## EDUCATING THE COMMUNITY

One of the main goals of Rule 6.5 is to change the culture of the profession in support of pro bono. The Commission has made presentations at several events in an effort to provide information and educate willing

listeners about the issues of pro bono and Rule 6.5. The first and most significant event was the first Access to Justice Conference, held in Indianapolis on January 28, 2000. Indiana Supreme Court Chief Justice Randall T. Shepard supported the efforts of the Commission and the many attorneys throughout the state at his lunchtime address. The Honorable L. Mark Bailey, Chair of the Commission, was a featured speaker and was joined by the Executive Director at a breakout session on pro bono and how the local Committees will work with local programs, judges, lawyers and other community organizations.

The second major event was the Spring Meeting of the Indiana State Bar Association in Fort Wayne on April 28, 2000. The Commission assisted in developing programming for the entire day including a "Pro Bono Fair" that provider organizations were invited to attend to recruit attorneys who participated in the conference. Also included in the programming were sessions on Rule 6.5, Pro Se programs, LSC funded organizations and their merger, Finding Your Passion for Pro Bono and several substantive law sessions on topics frequently encountered in pro bono litigation such as housing, immigration, health care, domestic violence, child advocacy, etc. The Indiana State Bar Association showed tremendous support for these efforts in allowing the Commission to take such a prominent position in the development of the programming.

The Executive Director also attended the Swearing In Ceremony of the new attorneys in November of 2000. Information about the Commission was available as well as information about the new attorney training that the Commission sponsors.

Another event at which the Commission presented information was the Indiana Coalition Against Domestic Violence State Conference. The Executive Director spoke to advocates, law enforcement, practitioners, social service agencies and many others who attended this conference about how they too can help address the unmet civil legal needs in Indiana. This appearance was especially helpful in creating networks in each of the districts so that providers are aware of all of the resources that exist and can collaborate to address significant issues like domestic violence.

The Commission also created an "insert" in the Indiana Lawyer that contained information about the Commission and the districts across the state. The staff wrote articles highlighting some of the pro bono work being done around the state and individuals and firms who have made significant contributions. It contained contact information about providers in the state and how to get involved in their pro bono programs as well as how to get involved in the work of the district Committee. With the help of the Indiana Lawyer, the Commission was able to send this insert to many attorneys around the state as well as distribute copies to attendees at the State Bar Association meeting and other organizations who requested information on the Commission. The Indiana Lawyer has agreed to assist the Commission with this effort again in 2001.

The Commission will also be sponsoring an Applied Professionalism CLE event for new attorneys who are required to get certain CLE credits in their first three years. Although several of the Rules of Professional Conduct will be discussed, this daylong program will focus on pro bono and representing lower income clients. This will not only prepare these new lawyers to represent lower income clients, it gives the Commission another opportunity to tell them about the district committees and the purposes of Rule 6.5. The Commission distributed information about this training event to all of the lawyers sworn in at the ceremony in November 2000 and staffed an informational table at that event.

## PLANNING FOR THE FUTURE

Although much consideration went into establishing priorities for the year 2000, the Commission is very aware that with each year's progress, the role of the Commission and its Executive Director will change. In developing the Commission's administrative budget for 2001, a decision had to be made about what the

districts would need and how much of the work can and should be done by the Commission and how much should be left to the districts. Rule 6.5 emphasized local control and autonomy. This autonomy, however, must be balanced with the idea of economy of scale. The commission's assistance can greatly increase the amount of work that is accomplished. It is also important to establish a presence in the state and continue to market and promote the idea of pro bono.

The Commission determined that it is necessary at this early stage in the development of the district plans for the Commission to have a full time Executive Director in 2001 and use some of the IOLTA funds for administrative support from the Commission for each district. At this point, it is crucial to have a central figure aware of the activities in each district in order to disseminate appropriate information and identify transferable programs and resources that can be shared with other districts. To this end, the Commission's administrative budget includes money for support and assistance to each district and to develop resources that all of the districts can utilize.

Utilizing this philosophy, the Commission has identified four main goals for 2001. These goals are in addition to the primary function of review, evaluation and recommendation of funding for the district plans. The first goal is to improve the district plans and assist the districts in accomplishing their goals. The second goal is to develop a curriculum of training seminars with a certificate of "graduation" that can be attained by participation in the program. The third is to continue to change the culture through marketing and publicity including the first Annual Dinner in conjunction with the Access to Justice Conference in February. The fourth is to develop the website and technology to further the goals of the rule and develop the culture of pro bono.

#### Assisting the Districts

The first goal is to assist the district committees in the development and execution of their plan. Rule 6.5 puts the power as well as the responsibility at a local level. Given this structure, the Commission is not in a position to create, design, or mandate any certain plan or program. Its role with the district plans will be limited to supporting their work and providing services that are requested by the districts. The Executive Director will make every effort to respond to the districts' inquiries and requests for resources. This assistance will include personal consultation, providing resources, developing program protocols, gathering information, developing the web site or any other assistance that a district may request.

The Executive Director will make every effort to stay informed of the progress of the district plans and to identify issues that have already been addressed elsewhere and share information that would be useful to each particular district. The Commission will be responsive to the districts and make the Executive Director available for personal consultation and appearances in their district.

#### Developing a Curriculum

As a continuation of the Commission's emphasis on education, the Commission will develop a curriculum of educational events. This curriculum will establish the areas of substantive law that need to be addressed. These issues include family law, housing, health care/disability, consumer/bankruptcy, and immigration. This curriculum will also include elements of trial process, professionalism issues, community involvement and strategic planning. The Commission hopes to develop a series of educational programs and provide a recognition award to attorneys who complete the course of study by attending a certain number of these events and completing pro bono work. These graduates will be honored at an annual dinner in conjunction with the Access to Justice Conference each year.

This program is intended to create leaders in the local communities and help recruit qualified and prepared pro bono attorneys. This program is also an effort to reward those who make pro bono work a priority in their career and recognize all of the hard work that attorneys put into helping the lower income population.

### Changing the Culture.

Although a cultural change is somewhat intangible, it is crucial to the success of the district plans and Rule 6.5. There must be statewide and profession-wide support for pro bono efforts and for the systems that address this need. In recent years, there has been very little focus on either the need for or the activities of pro bono attorneys. The Commission hopes to change that over a relatively short period of time. Certainly the establishment of the District Committees and the tie to the IOLTA program has generated both discussion and participation by attorneys. A significant step towards achieving this goal is the Commission's participation in the Access to Justice Conference in February of 2001. This is an opportunity to not only educate an audience but to bring together people who are involved in various aspects of the legal problems the Commission is addressing. Rule 6.5 and the work of the Commission is all about cooperation and collaboration to achieve a common goal. The Access to Justice Conference highlights these efforts and encourages those who are involved to continue their work and to realize they are not alone in their fight.

### Website and Technology Development

The fourth goal, website and technology development is crucial for involving people from different parts of the state and different disciplines and organizations. Although there are publications for lawyers and social workers, there is no real forum for the development of ideas and obtaining information about addressing legal needs in Indiana for lower income people. This website, along with the list-serves, will create a place for those who are interested to go and find out what is going on in their area and also how they can help. They can also obtain resources for the pro bono work that they are doing in their own practice.

We have partnered with Access Indiana and they will assist the Commission in developing this website. The Commission's hope is that the local district Committees will utilize this website as well and encourage their local community members to utilize this to find resources for members who need certain services and how the "system" works in their community. In the future, the Commission hopes to have an entire library on-line and many resources for the pro bono attorneys to accomplish their work in an enjoyable and effective way.

### CONCLUSION

Although 2000 was an important year in the life of the Commission, 2001 will be even more so. With the completion and execution of the 2000 plans, 2001 should bring a tangible difference in the lives of many of the underserved population in Indiana. The Commission will continue to try to educate all citizens of Indiana, not only about the needs and problems but also about the solutions and the resources that are becoming a reality for many people. The Commission is a dynamic organization whose goals and work will reflect the work of the District Committees. The Commission hopes to be a leader and a supporter of the changes that are rapidly occurring on the previously undistinguished pro bono landscape in Indiana.