



Pro Bono

VOLUNTARY STANDARD

3 CASES | 30 HOURS | 300 DOLLARS

★ ★ ★ ★ “...and
★ ★ ★ ★ justice
★ ★ ★ ★ for all”

A Report on Pro Bono in Michigan: 2007

Underwritten by the Michigan State Bar Foundation

Prepared by
Larry A. Hembroff, Ph.D.
Jill Hardy, M.S.
Nathaniel Ehrlich, Ph.D.

December 2009



STATE BAR OF MICHIGAN
Michael Franck Building
306 Townsend Street
Lansing, MI 48933-2012

“ . . . And Justice for All ”

A Report on *Pro Bono* in Michigan: 2007

Prepared by

Larry A. Hembroff, Ph.D.

Jill Hardy, M.S.

Nathaniel Ehrlich, Ph.D.

Of the Office for Survey Research
Institute for Public Policy and Social Research
Michigan State University

For the

State Bar of Michigan

306 Townsend Street

Lansing, MI 48933-2012

December 2009

“A portion of the data presented in this report was collected under contract by the Office for Survey Research of the Institute for Public Policy and Social Research (IPPSR) at Michigan State University. While the Institute for Public Policy and Social Research accepts responsibility for the quality of the data, the interpretation and conclusions presented are solely those of the author(s).” Funding for this project was provided by the Michigan State Bar Foundation.

Table of Contents

Introduction.....	1
The Data Collection.....	2
The Web Survey.....	2
The Focus Groups.....	4
The Coordinator Interviews.....	5
Geographic Regions.....	6
Caveats.....	7
Methods.....	7
Samples.....	7
Groupings of Respondents.....	8
Standards.....	8
Year References.....	8
Results.....	9
Has <i>Pro Bono</i> Service in Michigan Increased, Decreased, or Stayed the Same Since 1997?.....	10
Prevalence of Providing <i>Pro Bono</i> Services.....	10
Types of <i>Pro Bono</i> Services Provided.....	13
Hours of Services Provided/Numbers of Matters Addressed.....	16
Donations.....	22
How Many Meet the Standard.....	28
What Types of Cases Are Handled and What Types of Services Are Provided?.....	30
Do Most Lawyers Believe in and Support <i>Pro Bono</i> ?.....	35
Do Lawyers Understand What <i>Pro Bono</i> Is and Is Not?.....	40
Do Lawyers Utilize Organized <i>Pro Bono</i> Programs to Do <i>Pro Bono</i> Service?.....	46
What Are the Main Reasons Lawyers Do or Do Not Do <i>Pro Bono</i> Service?.....	50
What Are the Main Reasons Lawyers Make or Do Not Make <i>Pro Bono</i> Financial Donations?.....	68
Conclusions.....	74

Introduction

A nation can claim to believe in “justice for all”, but theory and practice, rhetoric and fact must be aligned for these claims to be meaningful. Legal expertise is necessary to navigate the complexities of courtrooms and legal problems and to ensure equal just under law. Making this expertise accessible to every person regardless of means or station is the only true guarantee of expertise for each – i.e., to ensure justice for all. However, in a socially differentiated society of private means, how is access to be accomplished for those without means? In the U.S., the legal profession has accepted that it has an obligation to help ensure that all are able to obtain legal assistance before the law. The legal system has, over time, developed a constellation of mechanisms to assure minimal access to justice. *Pro bono* work by private lawyers is a critical part of that constellation of mechanisms.

Education of the legal profession is partly designed to teach future attorneys that there is an ethical obligation to help ensure access to legal expertise for all on the part of every attorney. This obligation is codified into the practice standards of the American Bar Association and many state bar associations. That obligation is to provide “*pro bono*” legal assistance – service for free or at reduced-fee -- to at least some of those who cannot otherwise afford the legal expertise needed to provide just consideration of their grievances, disputes, or transgressions.

There is no binding requirement that attorneys do this. It is a voluntary ‘standard.’ Without a requirement, there is no formal sanctioning or formal mechanism of enforcement. Rather, compliance is dependent on how strongly those professional norms and values were inculcated during and after legal education and how much they withstand the pressures of competing interests from employers, families, and communities.

The Voluntary Pro Bono Standard (Rule 6.1) of the State Bar of Michigan derives from the Michigan Rules of Professional Conduct 6.1. The standard specifies that all active members of the Bar should participate in the direct delivery of *pro bono* legal services to the poor by annually providing one of the following:

1. Representing without charge a minimum of three low-income individuals;
2. Providing a minimum of thirty hours of representation or services without charge or at a reduced fee to low-income individuals or charitable or public service organizations; or
3. Contributing a minimum of \$300 to not-for-profit programs organized for the purpose of delivering civil legal service to low-income individuals or organizations.

But if assuring the rule of law and legal rights depends at least partly on *pro bono* services being provided to the poor, how do we know if it’s being done, by how many, how much? When it isn’t being done, why isn’t it? Are there structural barriers that prevent some lawyers from

fulfilling their obligation or is it a matter of personal decision-making? Answering these questions are the main objectives of the study summarized in this report.

Most states generally define *pro bono* similarly to the State Bar Standard noted above. There is variation from state to state, however, as to how strongly it is encouraged and how compliance is assessed. Some states have mandatory annual reporting of *pro bono* service hours, others have voluntary reporting, and still others have no reporting except via surveys of attorneys.

Since there is no national reporting requirement, national assessments of the *pro bono* services of lawyers have been based on surveys. The American Bar Association (ABA) conducted a national survey in late 2004 covering activities from November 2003 until November 2004. The most recent national assessment by the ABA was conducted in 2008 with the report published in 2009.

Michigan also has no reporting requirement. Attorney compliance with the state standard has been assessed only once before and based on a survey of attorneys in the state. It was assessed in 1997 by the State Bar of Michigan (SBM) regarding 1996 activities. It has now been assessed again in 2008 regarding 2007 activities. This is a report of the 2008 SBM study.

The specific objectives of the 2008 SBM study were to:

1. Identify similarities and differences from the 1997 SBM survey and the 2009 ABA surveys to the extent possible
2. Ascertain how much *pro bono* service and donations Michigan lawyers report contributing
3. Understand why they are or are not doing *pro bono*, and
4. Determine what state and local stakeholders can do to promote greater *pro bono* participation (service and donations).

The Data Collection

Data reported here were gathered in three ways: (1) a web survey offered to all attorneys licensed in Michigan, (2) seven focus groups of 5-16 attorneys each conducted in four cities around the state, and (3) telephone interviews with 20 *pro bono* coordinators from among the 31 largest law firms in Michigan. Most of the statistical data reported will be based on the web survey. The other two data sources will be used to illustrate, clarify, or elaborate key points indicated by the statistical analysis.

The Web Survey

The 2008 State Bar of Michigan *Pro Bono* Survey was administered in July of 2008 and was designed to be a web survey of Michigan State Bar lawyers. The survey was administered by Michigan State University's Office for Survey Research (OSR).

The sample was extracted from State Bar of Michigan (SBM) records and contained all attorneys listed as currently licensed in July 2008 and for whom the State Bar of Michigan had an email address. The list contained the attorney ID number and names of 37,747 attorneys licensed with SBM. Where it was available, the list also contained email address, law school, bar admit date, occupation type, firm size, county and/or state of address listed with SBM, birth date, race and gender¹. Of those on the combined list, 5,542 did not have an email listed and therefore did not receive a personalized email invitation.²

The web questionnaire was developed by the research team from SBM and the OSR and programmed for Websurveyor administration. An important goal of the survey was to replicate, to the extent possible, the questions asked ten years earlier in the 1997 *Pro Bono* Survey conducted by SBM. A third of the 2008 web survey questions mirrored the 1997 survey questions. The web survey instrument can be described briefly as being divided into categories as follows:

- Participation in *pro bono* activities, including numbers of hours and matters spent on free and reduced fee services in 2007 within categories of services types, i.e., free civil legal for poor or others, free criminal for the poor, reduced fee civil or criminal
- Type of free or reduced fee legal services provided in 2007 and the amount normally billed for such service.
- Questions about why respondents do *pro bono*, and the sources of their *pro bono* work
- Incentives and barriers to doing *pro bono*
- The *pro bono* culture of their firm
- Contributions to the Access to Justice Fund (ATJ) and ATJ Fund eligible legal aid programs and other donations to civil legal aid in 2007
- Reasons and occasions for donating to civil legal aid
- Understanding of and adherence to the State Bar of Michigan's voluntary *pro bono* standard
- Demographics
- Recruitment for *pro bono* focus groups to be held at a later time as a part of this study

SBM provided a generic link to the survey from their website and published the generic link in the Michigan Bar Journal for those few attorneys for whom SBM had no email address. The field period began with the invitation email on July 8, 2008 and concluded on August 4, 2008 with a total of 3,768 submitted surveys and 820 partial surveys. Up to two follow-up email notes were sent to non-responders after the initial invitation to encourage participation.³

¹ In any data presented to SBM, the identifiers; p-number, name and email address; were removed from the dataset

² To make sure that as many attorneys were included as possible, Michigan licensed attorneys who did not have an email address listed with the SBM could participate via a generic web link to the survey published in the SBM Bar Journal and available on the SBM website.

³ A survey is considered submitted if the respondent clicked the submit button at the conclusion of the survey. It is not an indicator of completeness since respondents may skip some questions if they wish. A survey is considered partial if the respondent answered questions up to the item that asks if they had done pro bono service during 2007.

Of all those sent initial invitations (32,205), 2,177 were not deliverable. Of the 30,028 that were deliverable, 38 attorneys refused or indicated they were not eligible, 5,557 attorneys accessed the web survey link, 820 of these partially completed the questionnaire and another 3,769 completed and submitted their responses. Thus, 15% of invited attorneys accessed the web survey. Of those who accessed the survey at all, 82% completed and submitted the questionnaire. The total number of attorneys who completed or partially completed the questionnaire was 4,588, which represents a 15% response rate. The total of 3,769 who submitted completed questionnaires represents a 13% response rate.

The Focus Groups

To provide additional insight into the state of *pro bono* in Michigan, OSR (working with both the State Bar of Michigan and the Detroit Metropolitan Bar Association) conducted a series of focus groups, four in Detroit and one in each Grand Rapids, Lansing, and Marquette. One of the Detroit focus groups was comprised of lawyers in large firms, one was comprised of *pro bono* coordinators for large firms, and one was comprised of lawyers in government or corporate law offices. The remaining four focus groups were comprised of lawyers in private practices – a mixture of solo practitioners, and those in small and large firms.

To recruit participants, respondents to the State Bar of Michigan's 2008 *pro bono* web survey were asked if they would be willing to participate in a focus group about *pro bono*.

- Those who agreed to participate and who met the firm size or firm type requirements were sent an email with detailed information about the focus group.
- Where the number of people who responded to the email was not sufficient to fill the group, phone calls were made to a number of those who had not previously indicated a willingness to participate in order to gain their participation.
- Participants for the coordinator focus group were identified by the State Bar of Michigan and the Detroit Metropolitan Bar Association.
- In Lansing and Marquette, additional participants were recruited by local bar associations.

The seven focus groups were conducted between October 11, 2008 and June 2, 2009. The number of participants in a single focus group ranged from 5 to 16.

A moderator guide that included oral consent to participate, directions for the moderator and the questions was prepared by researchers at MSU's Office for Survey Research in consultation with representatives of the State Bar of Michigan and the Detroit Metropolitan Bar Association. The topics covered in the discussions included:

- Sources of *pro bono* work
 - *Pro bono* clients
 - The court system
 - Individual attorney's involvement in *pro bono* work
 - The *pro bono* culture of the attorney's firm
-

Participants were asked to relate both positive and negative experiences with *pro bono* service. Financial donations were discussed, especially those given to legal aid. Other topics, such as the State Bar's voluntary *pro bono* standard and the definition of *pro bono* were also addressed.

The focus group discussions lasted approximately 90 minutes. Focus groups were both video- and audio-recorded. The audio recordings were used to create transcripts of each focus group. To protect confidentiality, personal identifiers were removed from the transcripts. Participants received lunch and fifty dollars cash for their participation.

The Coordinator Interviews

To explore further the unique cultural context of legal practice within very large firms as it relates to *pro bono* service, OSR conducted a series of telephone interviews with the *pro bono* coordinators at 20 of the 31 largest law firms in Michigan.

The interview questions were prepared by OSR staff with extensive collaboration from representatives of the State Bar of Michigan. The questions were designed to gather basic facts about the individual firms' *pro bono* programs and to elicit more detailed. The interview included 56 items. Items consisted of both closed- and open-ended questions. Topics covered included:

- Details about their firm's *pro bono* policy -- if one existed
- The history of their firm's *pro bono* program
- Management's, attorneys' and the coordinator's views of *pro bono* and *pro bono* practices in their firm
- Internal and external challenges to *pro bono* in their firm
- Understanding of the Circle of Excellence
- Recording of *pro bono* work and financial donations at the individual and firm level
- Access to Justice donations and the State Bar of Michigan's '\$300 voluntary donation in lieu of service' standard
- Firm budgets for financial donation to charities, in particular donations to civil legal services
- Management's, attorneys' and the coordinator's opinions of financial donation practices in their firm

Representatives from the State Bar of Michigan identified the 31 largest firms in Michigan and provided the *pro bono* coordinator contact information where available.

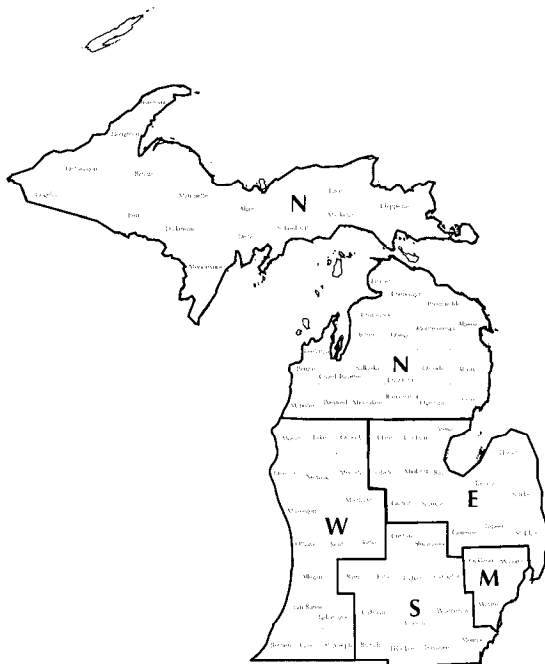
Interviews were conducted by one experienced interviewer who was also a law student. The interviewer was trained in proper interviewing technique and also received specific training, feedback and instruction from SBM representatives. Initial interviews were recorded and confidentially reviewed by one designee of the State Bar of Michigan for consistency and appropriate depth of probing.

Calling began January 19, 2009 and concluded April 8, 2009. Of the 31 firms, 20 interviews were completed with the *pro bono* coordinator or another representative identified as knowledgeable about *pro bono* practices at the firm. At five firms, a coordinator was identified, but multiple attempts to complete the interview were unsuccessful. Of the remaining six firms, the interviewer was able to determine that there was no coordinator at three of the firms and, despite numerous calls, was unable to confirm whether a specific coordinator position existed or not, or to identify an alternate contact person. The main offices for sixteen of the firms interviewed were located in Southeast Michigan. The remaining four firms had their main Michigan office in the Grand Rapids area.

Geographic Regions

For purposes of analysis, it was desirable to be able examine possible variation in *pro bono* service, activities, and views across the different regions of Michigan's diverse geography with its correlated variations in industries, economics, demography and population density. For purposes of this report, the clusters of counties forming the regions correspond to the Michigan State Bar Foundation's program service areas (see the map in Figure 1).

Figure 1. Map of MSBF Program Service Areas



The grouping of counties into regions is as follows (counties listed within regions):

N = North (Alcona, Alger, Alpena, Antrim, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Crawford,

6.

Delta, Dickinson, Emmet, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Kalkaska, Keweenaw, Leelanau, Luce, Mackinac, Manistee, Marquette, Menominee, Missaukee, Montmorency, Ogemaw, Ontonagon, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft, Wexford)

W = West (Allegan, Berrien, Cass, Ionia, Kalamazoo, Kent, Lake, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, St. Joseph, Van Buren)

E = East (Arenac, Bay, Clare, Genesee, Gladwin, Gratiot, Huron, Isabella, Lapeer, Midland, Saginaw, Sanilac, St. Clair, Tuscola)

S = South (Barry, Branch, Calhoun, Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe, Shiawassee, Washtenaw)

M = Metro (Macomb, Oakland, Wayne)

Caveats

In interpreting the survey results, comparing results across groups or between different surveys, several important factors should be considered that may affect the interpretation. These have to do with the effects of differences in methods used, standards and definitions applied, and samples and population profiles. These and several other notes are discussed briefly below.

Methods. The 2004 and 2009 ABA surveys of attorneys nationwide were conducted by telephone. The survey of Michigan attorneys reported here was a web survey. There is no live person with whom the respondent interacts in the SBM survey to whom the respondent gives answers to questions. Consequently, there is, in principle, less social incentive to provide more “socially desirable” responses to questions than in an interview situation. Some differences between the ABA surveys and the 2008 Michigan survey could arise as a result of this difference in the modes of survey administration.

Standards. The *pro bono* standard of the ABA is somewhat different from that of the State Bar of Michigan. For example, the ABA specifies 50 hours of *pro bono* service whereas SBM specifies 30 hours. SBM credits ‘free or reduced-fee’ services while ABA credits “free or substantially reduced fee.” These differences in the standards will make the estimated compliance rates between the two surveys less comparable than is desirable and could explain some of whatever differences are observed. Similarly, neither the ABA nor the 1997 SBM survey questionnaire explicitly defined which free or reduced-fee services could be counted in answering questions about *pro bono* services provided and which could not. This left it somewhat open to the interpretation of the respondent and may have resulted in a more generous reporting of *pro bono* activity than might have occurred if a precise definition had been provided. In contrast, the 2008 SBM questionnaire did include an explicit description of the kinds of activities and donations that could be counted as having done *pro bono*. While the latter approach would be expected to improve accuracy of reporting for 2007, it should also be expected to reduce estimates from what they otherwise would have been had no definition been provided.

In designing this survey, the drafters made a concerted effort to educate lawyers about the definition of *pro bono* legal service as articulated in the State Bar's Voluntary *Pro Bono* Standard. The Standard appeared several times in the survey in an effort to promote a consistent definition of *pro bono* legal service among lawyer respondents. However, some of the responses have led us to suspect that, despite this, some lawyers were in fact applying different definitions of *pro bono*. For example, some lawyers said they have sometimes considered *pro bono* legal service to be when they did not collect fees owed to them by clients who had agreed to pay them. This and other examples did not match the definition of *pro bono* legal service under the Standard. The Standard is long and somewhat complex. A number of lawyers said they were not even familiar with the Standard. The review panel for this report noted that the Standard seems to be more strictly and consistently applied in large firms where there is usually a central *pro bono* coordinator who reviews each proposed case or project and only approves those which meet the Standard. In small firms, each individual lawyer is more likely to decide what she or he thinks is *pro bono* legal service. The review panel believes that these are

important caveats to consider when interpreting the overall data reported from the survey and developing recommendations for future action.

Groupings of Respondents. Throughout the report, the *pro bono* activities, attitudes, and beliefs of respondents are described both overall and across groupings of attorneys. Demographic and practice setting groupings of respondents are based on attorneys' self-reported information on their SBM membership forms. This includes county, state, gender, race/ethnicity, age, occupation, and firm size. Particularly regarding occupation and firm size, we have combined responses to these two items in the membership files to form the practice setting categories, i.e., private practice (solo, small, medium, large firm), corporate, government, etc.). In the SBM membership database, attorneys who described themselves as 'in-house/corporate counsel' are identified in the tables and text of the report simply as 'corporate' attorneys.

Samples. The 2004 ABA survey was based on telephone interviews with 1,100 attorneys selected in a nationwide, stratified random sample. The 2008 SBM survey was administered to nearly all (30,028) Michigan attorneys in the SBM database – approximately 82% of all licensed attorneys in the state. In principle, it was a census rather than a sample. A total of 4,588 attorneys provided a response (15%). A number of those who responded indicated that they are currently located in another state. For analysis purposes, the sample will be restricted to only those whose office address is located in Michigan – a total of 3,676. Comparing the SBM sample to the ABA sample, it becomes clear that the profiles of the two samples of attorney respondents are somewhat different in important ways.

The ABA report of the 2009 survey indicates that 83% of the respondent attorneys were in private practice, 9% were corporate counsel, and 8% were government. Unlike the 2004 survey, the 2009 survey excluded attorneys working in academia. The 2008 SBM sample included all attorneys, some of whom do not fit into the three categories above (e.g., legal services, and attorney in non-law occupations). Additionally, the ABA survey excluded judges, retired and inactive attorneys, as well as legal aid/public defender lawyers. For most analyses, the responses of all non-retired attorneys in the SBM survey will be reported. When comparing the 2008 SBM survey results to the ABA results, the sample will be limited to only attorneys that match the inclusion criteria used by the ABA (i.e., private, corporate, and government attorneys). Even after doing this, only 73% of the attorneys in the SBM sample were in private practice, while 12% were in-house/corporate counsel, and 15% were government attorneys. To the extent *pro bono* activities or views differ among attorneys in these different practice settings, then some differences between the SBM survey results and the ABA survey results would be expected because of these significantly different profiles.

Year References. Throughout the report, surveys and findings will be identified by year. This has the potential to be somewhat confusing since, for example, the SBM survey conducted in 2008 collected data about 2007 activities and donations and the 1997 SBM survey collected data on 1996 activities and donations. When referred to in the text or tables, the date referenced will depend on whether it refers to the survey or the time period in which the activity or donations occurred, e.g., the 2008 SBM survey vs. the 2007 *pro bono* activities.

Results

The reporting of the findings of the survey will be organized to answer eight questions:

1. Has *pro bono* service in Michigan increased, decreased, or stayed the same since 1997?
2. What types of cases are handled and what types of services are provided?
3. Do most lawyers believe in and support *pro bono*?
4. Do lawyers understand what *pro bono* is and is not?
5. Do lawyers utilize organized *pro bono* programs to do *pro bono* service?
6. What are the main reasons lawyers do or do not do *pro bono* service?
7. What are the main reasons lawyers make or do not make *pro bono* financial donations?
8. Is Michigan's experience generally similar to or generally different from elsewhere?

The answers to question 8 will not be set off in a separate section but, rather, will be woven into the other sections where applicable and where similar reported results are available.

While it will be interesting simply to report the particular finding that answers the question, it will be even more interesting – and more helpful – to compare results across categories of attorneys. For example, it would be one thing to report that -- hypothetically – *pro bono* activity has decreased since 1997. It would quite another to report that – hypothetically – *pro bono* activity is greater among males than females, older attorneys than younger attorneys, those in small firms than large firms, etc. Knowing such differences will provide greater information with which to understand the barriers or impediments to providing *pro bono* services. It may also provide richer insights into new policies, programs, or campaigns that might effectively increase *pro bono* services in the state should that seem warranted.

In most instances, there is no single indicator to look at in order to answer the questions. In nearly all situations there will be multiple indicators that must be taken into account together which then collectively provide the answer.

In addition to comparisons across categories of attorneys, the report will also compare – where possible – the results of the 2008 survey to that of the 1997 Michigan survey and the 2009 ABA survey.

Has Pro Bono Service in Michigan Increased, Decreased, or Stayed the Same Since 1997?

Prevalence of Providing Pro Bono Services. There are four indicators to examine in order to answer this question: the percentage of attorneys who provided *pro bono* services, the hours of service provided, the number of matters addressed, and the percentage of attorneys making financial donations to qualifying kinds of organizations.

The 2008 SBM questionnaire provided respondents with the description of the Voluntary *Pro Bono* Standard and then asked respondents “Did you do any *pro bono* legal service during 2007?” Retired respondents have been excluded from the analysis. Importantly, all respondents were asked if they were public interest lawyers or not. One in eight attorneys said that they were. These attorneys were instructed explicitly to exclude *pro bono* legal services that were performed as a part of their paid primary employment as a public interest lawyer. They were instructed to include only unpaid legal work undertaken outside of their regular paid employment.

Table 1 shows the percentages of attorneys who reported doing any *pro bono* activity during 2007 along with the corresponding percentages reported for the 2008 ABA survey and the 1997 SBM survey. Among all non-retired attorneys, the table indicates that 66% reported having provided some *pro bono* service during 2007. This was a somewhat lower percentage than was reported in 1997 (71%). It is important to note that the 2008 survey explicitly described the kinds of qualifying services to include in response to the question as to whether or not the respondent attorney had performed *pro bono* services during the previous 12 months. No such explicit criteria were provided in the 1997 survey, making it likely that some respondents to the earlier survey included activities that were disallowed from consideration in answering the 2008 version of the question. Therefore, some or all of the difference between the 71% providing service reported in 1997 and the 66% reported in 2008 may be attributable to the wording differences in the questions.

The table also shows the percentage who reported doing any *pro bono* activity among only those categories of practice types that correspond to those included in the ABA Survey (labeled “SBM_{aba}” in the table). Among these attorneys in Michigan, 68% reported doing some *pro bono* in 2007 which is also somewhat lower than reported by the ABA. Recall, however, that the SBM survey clearly identified what to include as *pro bono* activity prior to asking for a response whereas the ABA survey interview asked respondents what they considered to qualify as *pro bono* and did not provide a specific definition in advance of asking. Also, as was pointed out earlier, the Michigan sample was comprised of proportionately fewer private practice attorneys and more corporate and government attorneys. If the SBM sample is adjusted to the proportionate composition of the ABA sample, the percentage who reported providing any *pro bono* services in 2007 is 72%. Given the margin of sampling error for a sample of 2,969 respondents -- i.e., $\pm 1.7\%$ (as in the case of the ABA sample) -- there is no statistically significant difference between the percentage of attorneys who participated in *pro bono* activity in Michigan compared to the nation as a whole -- taking the relative differences in population profiles into account.

TABLE 1:					
Percentage of Respondents Who Reported <i>Pro Bono</i> Activities in 2007 or Never					
Respondents	Provided Service in 2007		Never Did <i>Pro Bono</i>		N
	%	95% Confidence Interval	%	95% Confidence Interval	
2008 ABA	73%	(70% - 76%)	NA	-- - --	1,100
2007 SBM_{aba}	68%	(66% - 70%)	10%	(9% - 11%)	2,969
2007 SBM*	66%	(64% - 68%)	11%	(10% - 12%)	3,660
1996 SBM	71%	(70% - 72%)	NA	-- - --	4,125
Gender					
Male	68%	(66% - 70%)	10%	(8% - 11%)	2,357
Female	60%	(58% - 63%)	14%	(12% - 15%)	1,300
Practice Setting					
Private	79%	(77% - 81%)	5%	(4% - 6%)	2,170
<i>Solo</i>	79%	(76% - 82%)	5%	(4% - 7%)	895
<i>Small (2-10)</i>	80%	(78% - 83%)	5%	(3% - 6%)	740
<i>Medium (11-20)</i>	74%	(67% - 82%)	6%	(2% - 10%)	140
<i>Large (21 or more)</i>	77%	(73% - 81%)	7%	(4% - 9%)	395
Corporate	52%	(47% - 57%)	15%	(12% - 19%)	364
Government	29%	(24% - 33%)	31%	(27% - 35%)	435
Academia	67%	(58% - 75%)	9%	(3% - 14%)	117
Legal Services	70%	(65% - 76%)	12%	(8% - 16%)	297
Non-Law	42%	(33% - 52%)	22%	(14% - 30%)	99
Judiciary	19%	(13% - 25%)	16%	(10% - 21%)	166
Race					
White	66%	(64% - 67%)	11%	(10% - 12%)	3,260
African American	60%	(53% - 68%)	16%	(10% - 21%)	154
Other	68%	(62% - 74%)	13%	(8% - 17%)	229
Age					
21-30	59%	(52% - 66%)	22%	(16% - 27%)	191
31-40	65%	(62% - 69%)	16%	(13% - 18%)	700
41-50	66%	(63% - 70%)	10%	(8% - 12%)	880
51-60	66%	(63% - 68%)	9%	(8% - 11%)	1,261
61-70	66%	(61% - 70%)	8%	(6% - 10%)	531
71 or older	69%	(60% - 78%)	4%	(0% - 8%)	97
Region of State					
Region N	73%	(67% - 79%)	7%	(4% - 10%)	218
Region W	69%	(65% - 73%)	9%	(7% - 11%)	509
Region E	70%	(64% - 76%)	8%	(5% - 11%)	258
Region S	60%	(57% - 63%)	14%	(12% - 16%)	819
Region M	66%	(55% - 59%)	11%	(10% - 12%)	1,845
Public Interest	83%	(79% - 86%)	5%	(3% - 7%)	473
All Others	63%	(61% - 65%)	12%	(11% - 13%)	3,177

Based on all Michigan attorneys, Table 1 compares the *pro bono* participation rates across a variety of respondent demographic and practice characteristics. The table indicates that:

- Male attorneys were somewhat more likely than female attorneys to report providing *pro bono* services in 2007.
 - However, while 76% of male attorneys were in private practice and only 12% were government attorneys, 20% of female were government attorneys and only 67% were in private practice.
 - Among private practice attorneys, the percentages of male and female attorneys who reported providing any *pro bono* services were virtually identical (79% vs. 78%); female corporate attorneys and female government attorneys were still somewhat less likely than their male counterparts to report having provided *pro bono* services in the past year (44% vs. 57% corporate; 23% vs. 33% government).
- Attorneys in private practice were half again as likely to report having provided *pro bono* services as corporate attorneys (79% vs. 52%) and more than two and a half times more likely than government attorneys (79% vs. 29%).
- Among attorneys in private practice there were no appreciable differences in the percentage who reported having provided any *pro bono* services across different size firms from solo practitioners (79%) to those in very large firms (77%).
- Attorneys in academia, legal services, non-law practices, and especially those currently in the judiciary were much less likely than others to report having provided *pro bono* services in 2007.
- The percentages who reported providing *pro bono* services were very similar across white non-Hispanic, African American and other racial/ethnic group attorneys.
- The percentage who reported having provided *pro bono* services in the past year tended to increase with the age of the respondents (i.e., 59% among those 21 to 30 vs. 69% among those over 70 who have not retired).
- Attorneys in the South region were less likely to report having provided *pro bono* services than attorneys elsewhere in the state, while those in the North region were somewhat more likely to report having provided services.
 - In interpreting this difference across regions, it is important to recall that the largest corporations and the primary concentrations of population and government are located in the South and Metro regions of the state. For example, whereas attorneys in private practice made up 74-81% of respondents in the North, West, East and Metro regions, they made up only 63% of respondents in the South region.
 - Similarly, whereas corporate attorneys made up 16% of respondents in the Metro region, they made up 6-10% of respondents in the other regions. Therefore, the lower rates of *pro bono* activity in these regions partly reflect the significantly different practice profiles of attorneys in the regions.
 - Nevertheless, even taking this into account, private practice attorneys in the northern and western parts of the state were somewhat more likely to report having provided *pro bono* services than those in the South and Metro regions (85% vs. 77%), as were government attorneys (34% vs. 27%).

All of the demographic and practice setting variables were examined using a multivariate statistical technique with whether or not the respondents did any *pro bono* in 2007 as the dependent variable. The analysis indicated that, controlling for the influences of gender, type of practice (i.e., private vs. corporate vs. government), region, and race, there was no significant influence of respondent's age or race on the likelihood of having done *pro bono* in 2007.

Controlling for the influences of each of the other variables, there remained statistically significant influences of respondents' gender, type of practice, and region of practice on the likelihood of having done *pro bono* in 2007. Of these, by far, the most powerful influence was the practice setting. Net of the influences of other variables, respondents in private practice were about three times more likely to have done *pro bono* in 2007 than corporate attorneys, and ten times more likely than government attorneys. Net of the influences of other variables, females were less likely than males, and respondents in the Metro region were less likely than those in the other regions to have done *pro bono* in 2007. **Thus, an attorney's practice setting was the most powerful predictor of whether or not he or she did *pro bono* in 2007. The result begs the question as to what, if anything, might be done to increase *pro bono* activities among corporate and government attorneys.**

Respondents who indicated they had not provided any *pro bono* services in 2007 were asked if they have ever provided *pro bono* legal services in their career as a lawyer. Of those who reported not providing *pro bono* services in 2007, 68% reported having done so at some other point in their careers. Overall, then, 66% participated in *pro bono* activity during 2007, 23% did not participate during 2007 but had at some other point in their careers, while 11% reported having never participated in *pro bono* activities. That is, 89% of all attorneys in Michigan reported that they have done at least some *pro bono* activities during their careers.

Table 1 also shows the percentage of attorneys in each demographic group or practice setting that reported they had never participated in *pro bono* activities. The table indicates that:

- Female attorneys, younger attorneys, attorneys in the South and Metro regions were more likely than their counterparts to have never provided *pro bono* services.
- Government lawyers and those in non-law occupations were more likely than others to have never provided *pro bono* services.

Types of Pro Bono Services Provided. All those who reported providing *pro bono* services in 2007 were asked to indicate if they had provided *pro bono* legal services for the poor, *pro bono* legal services regardless of client income level, criminal legal services for the poor without compensation, reduced fee civil or criminal services, or something else. Respondents could indicate having done one or more of these different types of *pro bono* activities and many did.

To minimize over-reporting, the questionnaire included fairly specific instructions regarding the kinds of assistance to include or not include in the cases of criminal legal services for the poor without compensation and reduced fee civil or criminal services. Although questions about efforts in each of these categories of service were included on the 1997 SBM questionnaire and in the 2009 ABA survey, these definitions were not included on either. This should make the findings here more accurate in reflecting what Michigan attorneys did in 2007 but should also make the findings less directly comparable to the other two surveys.

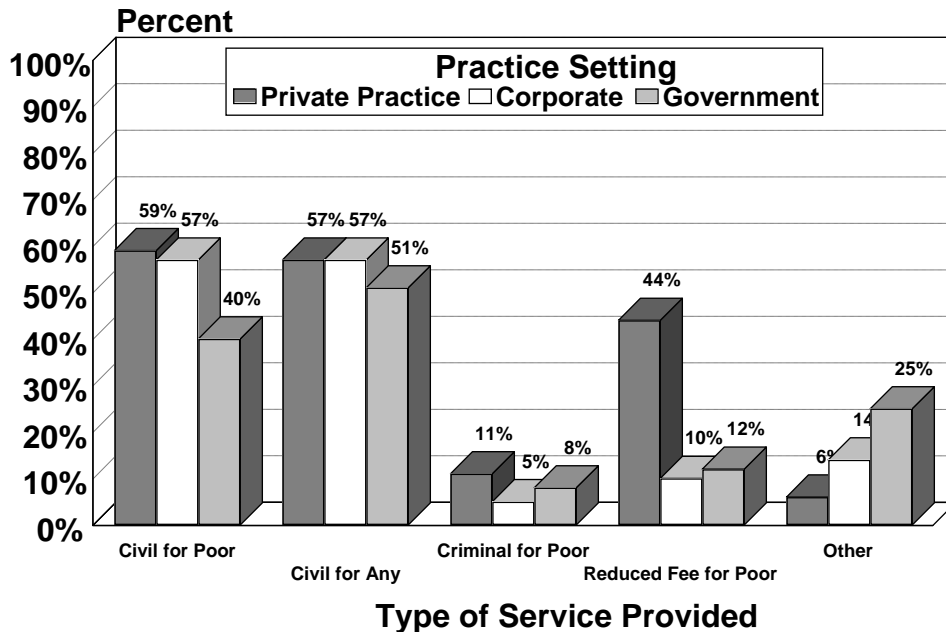
Among the respondents who had reported doing *pro bono* in 2007, 58% reported providing *pro bono* civil legal services for the poor, 56% reported providing *pro bono* civil legal services regardless of client income level, 11% reported providing criminal legal services for the poor without compensation, 37% reported providing reduced fee civil or criminal services, and 9% reported their *pro bono* activities did not fall into any of these four categories of services. About half (48%) of these attorneys reported providing services in only one of these categories, 35% reported providing services in two categories, 14% in three, and 3% reported providing services in four different categories of types of *pro bono* services.

As Figure 2 indicates:

- Private practice and corporate attorneys were about equally likely to have provided free legal civil services to the poor and to others regardless of income while government attorneys were considerably less likely to have done so.
- Private practice and government attorneys were similarly likely to have provided criminal legal services without compensation while corporate attorneys were less likely.
- Private practice attorneys were roughly four times as likely as either corporate or government attorneys to report having provided reduced fee civil or criminal services.
- Government attorneys were more likely than corporate lawyers to indicate that their *pro bono* activities did not fit into any of the other four categories; corporate lawyers were more likely to indicate this than were private practice attorneys.

This indicates that most of the difference in the percentage who did *pro bono* between private practice and corporate attorneys is attributable to private practice attorneys being more likely to do reduced-fee service for the poor.

Figure 2.
Percent of Attorneys Providing Various Types of
***Pro Bono* Legal Services by Practice Setting**



Additionally, *pro bono* services could have been provided directly to poor individuals or more indirectly by providing services to organizations or committees which then provide direct services to the poor. Among all Michigan attorneys, 46% reported providing some free civil or criminal legal services to individuals of limited means while 30% reported providing some free civil or criminal legal services to organizations or committees that serve the poor.

Similar to results noted in the 2009 ABA survey report, attorneys in smaller private practices were more likely to report having provided free services to poor individuals than attorneys in larger private practices, corporate or government attorneys (solo, 61%; 2-10 attorneys, 60%; 11-20 attorneys; 50%, 21 or more attorneys; 47%, corporate attorneys, 32%; government attorneys, 16%). However, the differences across firm sizes and settings was much less regarding providing free services to groups or organizations that serve the poor (solo, 30%; 2-10 attorneys; 40%, 11-20 attorneys; 34%, 21 or more attorneys, 43%; corporate attorneys, 26%; government attorneys, 11%).

Figure 3 indicates that, whether providing services to individuals or groups, Michigan private practice attorneys were less likely to report providing services than were private practice attorneys nationwide based on the 2009 ABA study, although the difference was greater with respect to providing services to poor individuals directly.

Figure 3
Percent of Attorneys Providing Free Legal Services to
Individuals, Organizations of Limited Means, by Practice
Setting: Michigan 2007 vs. ABA 2008



Corporate lawyers in Michigan were equally likely as corporate lawyers in the national ABA study to report providing services to poor individuals directly and slightly more likely to report providing services to groups or organizations that serve the poor. Government attorneys in

Michigan were less likely than their counterparts nationally to report providing free services either directly to poor individuals or to groups or organizations that serve the poor.

Hours of Services Provided/Numbers of Matters Addressed. Respondents who reported having provided *pro bono* services in one or more of the categories of service types were then asked to indicate the number of hours they had spent providing services of that type for individuals and the number of hours they had spent providing services of that type for organizations or committees that provide direct services to the targeted clients. Respondents were then also asked to indicate the number of matters or cases that were involved for each. Again, public interest lawyers were instructed to include only hours of service and matters for individuals or groups that were outside of their regular paid employment.

Table 2 shows the estimated total hours and matters reported by respondents. The table also shows the comparable numbers of hours and matters reported by respondents for 1996 in the 1997 SBM survey.

The numbers in Table 2 are not directly comparable since they represent the summed responses of all those who responded, but the number of respondents in 1997 was not the same as the number of respondents in 2008. Neither are the numbers comparable to the hours contributed reported nationally based on the 2009 ABA survey.

For example, if 50% of respondents in a sample of 1,000 each performed 100 hours of service, the total hours of service reported would be 500×100 or 50,000 hours. If 33% of respondents in a sample of 3,000 each performed 100 hours of service, the total hours of service reported would be $1,000 \times 100$ or 100,000 hours. That latter survey would report more total hours even though fewer attorneys provided services simply because of the larger sample size.

To provide a metric with which to compare results from one survey to another, the ABA survey took the hours reported by respondents who said they provided *pro bono* services and then divided it by the total number of respondents to the survey as a whole. This averages the hours of service provided by those who contributed them across all respondents whether they provided services or not. While this understates the average hours contributed by those who actually provided services, it provides a much more accurate assessment of the actual *pro bono* contribution at that point in time.

Using the ABA methodology, Table 3 shows the average number of hours and numbers of matters of *pro bono* services provided per attorney for each of eight types of civil, criminal or other legal services, some provided free and some at reduced fees. The table shows the averages based on the 1997 SBM and 2008 SBM surveys and it shows the differences in the averages for 2007 and 1996. Where the differences are printed in parenthesis, the average number of hours or matters declined from 1996 to 2007. Where the differences are positive (i.e., no parenthesis), the average number increased from 1996 to 2007.

The table indicates that:

Table 2: Estimated Total Numbers of Hours, Matters Provided, by Type of Services: 1996 vs. 2007				
Estimated Total No. of Matters		Estimated Total No. of Hours		Type of Pro Bono Service Provided
1996	2007	1996	2007	
18,784	10,270	89,965	58,928	Civil Legal Services for the Poor Free legal work for poor individuals
3,030	3,940	23,954	28,631	Free legal work for organizations or committees that provide direct services to poor individuals
6,016	2,913	32,660	22,168	Reduced fee work in civil cases for low income persons
27,830	17,123	146,579	109,727	Subtotal
				Other Civil Legal Services Free legal work of individuals based on case type or some factor other than client income
3,725	6,514	15,206	34,919	
3,593	1,887	20,310	16,910	Reduced fee work in civil cases for moderate income persons
3,621	5,128	42,007	32,697	Free legal work for other organizations or committees that provide a general benefit to community, regardless of income level
10,939	13,529	77,523	84,526	Subtotal
3,533	1,981	29,010	32,843	Criminal Legal Services for the Poor Free and or Reduced-fee criminal law work
9,157	4,486	70,697	20,983	Acceptance of reduced-fee criminal law or juvenile law appointments
12,690	6,467	99,707	53,826	Subtotal
2,201	8,054	16,362	30,856	Other Other free or reduced fee legal services
53,660	45,173	340,171	278,935	Grand Total

- The average number of hours of free or reduced fee civil legal services for the poor declined by more than five and half hours per attorney from nearly 36 hours in 1996 to 30 hours in 2007.
- The average number of hours per attorney providing free civil legal services for poor individuals declined by nearly six hours per attorney from nearly 22 hours in 1996 to slightly more than 16 hours in 2007.
- The average number of hours per attorney providing free civil legal services for groups or organizations that serve the poor increased an average two hours. However there was a nearly equal decline in the hours of reduced fee work in civil cases for low income individuals.
- The average number of hours of free or reduced fee legal work for individuals or groups based on case type rather than client income increased from 1996 to 2007 by more than

-
- four hours per attorney, but the total change resulted entirely from an increase in such free service to individuals, since the free services to groups and the hours of reduced fee services of this type declined slightly.
- The overall average number of hours of *pro bono* service for criminal or juvenile cases declined from 1996 to 2007 by almost ten hours per attorney, with all of the decline accounted for by a drop of more than eleven hours of reduced fee criminal or juvenile appointments rather than free or reduced fee criminal law work.
 - The average number of hours of reported *pro bono* activities outside of the above categories increased by roughly four and a half hours from 1996 to 2007.
 - Across all categories of services, the average number of hours provided per attorney declined from 82 and a half in 1996 to roughly 76 in 2007 – a drop of six and a half hours of service per attorney.

Tables 2 and 3 indicate that the total number of hours of *pro bono* service attorneys reported for 2007 was 278,935 hours or 76.21 hours per attorney. The average number of hours of service per attorney provided free to poor individuals for civil or criminal legal matters was 28.4 hours, while the average number of hours of service per attorney provided free to organizations or groups that serve the poor was 16.7 hours. The average number of hours provided to individuals was virtually the same as that reported nationally in the 2009 ABA survey, while the average number of hours provided for organizations was slightly greater than the 13 hours reported nationally in the ABA survey.

Table 3 also shows the average number of matters addressed per attorney in each of the categories of service. The table indicates that the overall average number of matters was nearly the same from 1996 to 2007, declining on average by less than one matter.

Table 4 shows the average number of hours of free or reduced-fee services for the different types and overall across demographic, regional or practice type groupings of attorneys. In this case, the total hours reported by attorneys in the demographic, region or practice setting category was divided by the total number of attorneys within that category rather than all attorneys. In the column headings, A1 refers to ‘free legal work for poor individuals’, A2 refers to ‘Free legal work for organizations or committees that provide direct services to poor individuals’, etc., as labeled in Table 3.

Table 3: Numbers of <i>Pro Bono</i> Hours Provided, Matters Addressed by Type of Service: 1996 vs. 2007						
Type of Service Provided	Ave. # Matters		Ave. # Hrs.		Difference: 2007-1996	
	1996	2007	1996	2007	Matters	Hours
A: Civil Legal Services for the Poor						
A1: Free legal work for poor individuals	4.55	2.81	21.81	16.10	(1.75)	(5.71)
A2: Free legal work for organizations or committees that provide direct services to poor individuals	0.73	1.08	5.81	7.82	0.34	2.02
A3: Reduced fee work in civil cases for low income persons	1.46	0.80	7.92	6.06	(0.66)	(1.86)
A-Tot: Subtotal	6.75	4.68	35.53	29.98	(2.07)	(5.55)
B: Other Civil Legal Services						
B1: Free legal work of individuals based on case type or some factor other than client income	0.90	1.78	3.69	9.54	0.88	5.85
B2: Reduced fee work in civil cases for moderate income persons	0.87	0.52	4.92	4.62	(0.36)	(0.30)
B3: Free legal work for other organizations or committees that provide a general benefit to community, regardless of income level	0.88	1.40	10.18	8.93	0.52	(1.25)
B-Tot: Subtotal	2.65	3.70	18.79	23.09	1.04	4.30
C: Criminal Legal Services for the Poor						
C1: Free and or Reduced-fee criminal law work	0.86	0.54	7.03	8.97	(0.32)	1.94
C2: Acceptance of reduced-fee criminal law or juvenile law appointments	2.22	1.23	17.14	5.73	(0.99)	(11.41)
Subtotal	3.08	1.77	24.17	14.71	(1.31)	(9.46)
D: Other						
D1: Other free or reduced fee legal services	0.53	2.20	3.97	8.43	1.67	4.46
Grand Total	13.01	12.34	82.47	76.21	(0.67)	(6.25)

**TABLE 4:
Comparison of Pro Bono Hours Provided (by Type) by Attorney Characteristics: 2007**

Attorney Characteristics	n	A1	A2	A3	A-Tot	B1	B2	B3	B-Tot	C1	C2	C-Tot	D1	TOTAL
		Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.	Ave. Hrs.
2007 SBM (all)	3,660	16.1	7.8	6.1	30.0	9.5	4.6	8.9	23.1	9.0	5.7	14.7	8.4	76.2
Gender														
Male	2,368	14.7	7.1	6.5	28.2	10.8	4.9	9.5	25.2	9.4	4.3	13.7	8.9	75.9
Female	1,305	18.4	9.0	5.1	32.5	7.1	4.0	7.8	19.0	7.9	8.2	16.1	7.7	75.2
Practice Setting														
Private	2,174	19.7	8.9	8.7	37.3	12.5	6.2	11.0	29.7	12.2	8.1	20.3	10.3	97.6
<i>Solo</i>	897	22.3	8.8	11.3	42.4	13.3	7.6	7.9	28.8	16.1	14.1	30.2	9.4	110.7
<i>Small (2-10)</i>	740	21.0	9.1	9.2	39.2	13.9	7.3	12.8	34.0	12.8	6.3	19.2	10.6	103.1
<i>Medium (11-20)</i>	140	9.5	8.9	3.6	22.0	7.8	2.5	11.6	21.8	3.7	0.4	4.0	6.5	54.4
<i>Large (21 or more)</i>	397	15.0	8.9	3.6	27.5	9.9	2.2	14.5	26.5	5.4	0.3	5.7	13.2	72.8
Corporate	368	7.6	5.1	0.5	13.2	4.9	0.6	5.8	11.2	1.46	0.1	1.4	6.0	31.8
Government	438	3.2	2.0	0.9	6.1	3.3	1.6	5.3	10.2	1.5	0.1	1.6	3.3	21.3
Academia	117	31.6	14.3	4.2	50.0	8.7	2.1	8.4	19.2	8.9	6.0	14.9	16.7	100.8
Legal Services	300	21.3	12.1	6.9	40.2	9.5	7.0	5.8	22.2	12.4	8.9	21.3	7.4	91.2
Non-Law	100	11.3	5.5	1.1	17.9	4.2	1.6	4.1	9.9	1.9	0.2	2.1	3.6	33.5
Judiciary	167	2.5	2.8	0.2	5.4	0.7	0.1	6.5	7.3	0.3	0.0	0.3	0.9	14.0
Race														
White	3,274	15.4	7.4	5.6	28.3	9.5	4.2	9.0	22.7	8.3	4.7	13.1	8.5	72.5
African American	154	30.0	16.0	13.3	59.3	7.6	10.4	7.0	24.9	18.4	15.2	33.6	12.0	129.8
Other	230	17.2	8.7	7.7	33.6	11.0	6.9	8.4	26.2	11.79	14.0	25.6	5.3	90.7
Age														
21-30	194	15.6	5.4	4.1	25.2	5.3	2.9	3.4	11.6	6.6	4.2	10.8	5.1	52.7
31-40	705	15.2	5.6	4.9	25.7	7.4	3.8	5.9	17.1	8.1	8.6	16.6	4.5	63.9
41-50	883	14.8	9.6	6.0	30.3	9.1	5.3	8.7	23.0	8.5	6.4	15.0	9.2	77.5
51-60	1,265	17.3	8.4	7.0	32.6	10.1	5.1	9.9	25.1	10.3	4.4	14.7	9.1	81.5
61-70	532	15.7	7.3	6.2	29.2	11.8	2.8	11.4	25.9	8.7	5.5	14.2	10.2	79.5
71 or older	97	19.8	7.2	5.1	32.2	17.0	11.7	16.7	45.3	6.4	0.2	6.5	16.9	100.9
Region of State														
Region N	220	16.0	7.6	6.3	29.8	11.2	3.9	13.4	28.5	8.4	6.7	15.1	8.6	82.0
Region W	510	16.7	9.8	5.6	32.2	9.4	3.5	11.8	24.7	7.6	4.9	12.4	9.6	78.9
Region E	259	18.2	6.2	7.2	31.6	9.3	3.0	4.6	17.0	8.4	13.5	21.9	6.5	77.0
Region S	822	17.3	6.9	5.5	29.7	7.4	3.3	9.7	20.4	8.6	5.9	14.5	9.0	73.7
Region M	1,865	15.0	7.9	6.2	29.0	10.3	5.8	7.8	23.9	9.6	4.6	14.2	8.0	75.2

Table 4 indicates that:

- The female attorneys who do *pro bono* provide, on average, more hours of free civil legal assistance to poor individuals than do male attorneys, fewer hours of free civil legal work not based on income level, and more hours of reduced-fee criminal law or juvenile law appointments; however, the average total hours of service provided per attorney did not differ between male and female attorneys.
 - Since females as a group were somewhat less likely than males to provide *pro bono* services, this means that those females who do provide a greater number of hours of service than do their male counterparts.
- Attorneys in private practice provided more hours per attorney of *pro bono* service of every type than did either corporate or government lawyers. On average, attorneys in academia and legal services offices provided more hours of civil legal service to the poor than did private practice attorneys, but less to others based on case type rather than client income level.
 - Among private practice attorneys, those in smaller practices tended, on average, to provide more hours of *pro bono* assistance than did those in larger firms. This was generally true even if only those who reported providing *pro bono* services were included. For example, attorneys in solo practice who actually provided services, on average, reported providing 140 hours of service in the past year compared to 128 hours by attorneys in small firms, 73 hours by attorneys in medium size firms, and 95 hours by attorneys in large firms. [NOTE: the section of the report that focuses on whether attorneys understand what is *pro bono* and what is not, suggests some of the differences across firm sizes may be the result of inflated estimates because of errors in what was counted as *pro bono*.]
- African American lawyers, on average, provided more hours of service of virtually every type that was directed at helping the poor than did white non-Hispanic attorneys and those of other racial or ethnic backgrounds.
- Older attorneys, on average, provided more hours of *pro bono* service than younger attorneys but only in types of service not directed specifically at the poor.

There were no significant differences in the average number of hours of service provided among the regions on eight of the nine types of service and the subtotals. There was a statistically significant difference among the five regions only in regards to the average number of *pro bono* hours provided by attorneys for free civil legal assistance to groups or organizations not based on income (B3). On average, attorneys in the East region reported providing fewer hours of service for these kinds of clients than other attorneys while attorneys in the North region and West region reported providing more hours of service for these types of clients.

Donations. Attorneys can meet their *pro bono* obligation by providing 30 hours of service, by donating \$300 or more to a not-for-profit program organized to deliver civil legal service to the poor, or by a combination of service and donation. The questionnaire asked all respondents whether or not, in lieu of or in addition to *pro bono* service they had made financial donations to Access to Justice Fund eligible programs or to organizations not on that list.

Of all the attorneys who responded, 21% indicated they had made financial donations to Access to Justice Fund eligible organizations in 2007. One in eight respondents (13%) indicated they had made a financial donation in 2007 to an organization providing free legal service that is not on the Access to Justice Fund eligible program list. Some made donations to both. One in six (17%) made a donation only to Access to Justice Fund eligible programs, 8% made a donation to a free legal service organization not on the Access to Justice Fund program eligible list, and 5% made a donation to programs or organizations of each of the types (NOTE: These sum to more than 21% because individual attorneys could donate to more than one type of program each).

Table 5 lists the total financial contributions by recipient reported by respondents for 2007 and 1996. As in the reporting of hours and matters, it is not possible to compare directly the estimated total dollars respondents reported donating in the two years since there are different numbers of respondents to the two surveys. Therefore, Table 5 shows the average donation per respondent attorney. However, in the 2008 SBM survey a large number of respondents (approximately 700) did not provide an answer to the question as to whether they had made a donation or not and only those who said they had were asked to report the amounts of the two types of donations. For calculation of totals, we have assumed these 700 did not respond because they had not, in fact, made contributions. Therefore, we have calculated the average based on all respondents to the survey. Similarly, the average calculated for 1996 is based on all respondents to that survey.

Table 5 indicates that the average donation to Access to Justice Fund eligible programs increased from 1996 to 2007, while there was a similar sized decrease in donations to non-Access to Justice Fund listed groups or organizations over the same time period.

Table 5: Respondents' Total and Average Financial Donations for Legal Services for the Poor: 1996 vs. 2007					
<u>Estimated Total</u>		Financial Donation	<u>Average Donation Per Attorney</u>		Difference: 2007-1996
1996	2007		1996	2007	
\$ 172,994	\$ 204,318	1. Financial donation to a State Bar approved organization in lieu of or in addition to service.	\$ 41.94	\$ 55.58	\$ 13.64
\$ 280,309	\$ 207,690	2. Financial donation to other entity	\$ 67.95	\$ 56.50	\$ -11.45
\$ 453,303	\$ 412,008	Total	\$109.89	\$112.08	\$ 2.19

Among the 534 respondents who reported donating to Access to Justice Fund eligible programs, the average reported donation was \$382.62.⁴ Averaged across all respondents, the \$204,318 total reported is \$55.58 per attorney in 2007 compared to \$41.94 in 1996. The total respondents reported donating to all non-Access to Justice eligible funds averaged across all respondents declined from \$67.95 in 1996 to \$56.50 in 2007. The average total contributions to both types of funds or programs increased only slightly (\$2.19) from 1996 to 2007.

Table 6 shows the percentage of attorneys who reported making donations to either or both of the types of free legal services funds or organizations and the average amounts of those donations across demographic and practice setting categories of respondents. The table indicates the average donation on the part of those who actually contributed. It indicates that the average donation by those who gave only to Access to Justice Fund eligible programs (411 attorneys) was \$320.81; the average donation of those who gave only to free legal services organizations or groups not on the Access to Justice Fund list (192 attorneys) was almost double -- \$623.87; and the average donation made by those who contributed to both types (128 attorneys) was \$1,252.32.

Table 6 shows both the percentages of attorneys among the various demographic and practice setting categories who reported making donations or not and the average amount of those donations. Table 6 indicates that:

- Female attorneys were somewhat more likely than males to make a donation of any kind, but particularly donations to Access to Justice Fund eligible programs, but overall, males tended to donate greater amounts.
- There were no appreciable differences in the percentages of attorneys in private practice, corporate and government setting who donated or not, although corporate attorneys who donated gave larger amounts to non-Access to Justice Fund listed groups or organizations.
 - Among private practice attorneys, those in larger firms were more likely to have donated compared to those in smaller firms.

⁴ The Michigan State Bar Foundation, which receives contributions to the Access to Justice Fund, estimates that the average gift (excluding unique gifts) from individual lawyers in 2007 was approximately \$368 from 1,552 donors for a total of just under \$560,000. This estimate was made only to assist with this report and not for accounting or other official donation reporting purposes. The average donation reported by the respondents to the survey is very similar to this figure, and it is certainly well within the margin of sampling error for the survey. Extrapolating the average from the 534 respondents to the actual 1,552 contributors would result in an estimated total contribution of \$593,823 – a slight over-estimate. However, if the \$204,318 total reported by the 534 respondents who donated is averaged across all 3,776 survey respondents (\$54.11) to get the average attorney donation whether they donated or not and then this is projected to the total number of attorneys in Michigan, the projected total donation would be estimated to have been \$1,674,831. This would be roughly three times greater than the actual amount donated. There are at least three possible explanations that could account for this. (1) Unintentional error on the part of respondents: perhaps some respondents claimed to have donated to ATJ eligible programs and funds in 2007 when they actually had not but had in either 2006 or 2008 and misremembered the year. (2) Intentional error on the part of the respondents: perhaps some respondents knowingly claimed to have donated when they had not. Or (3), those who responded to the survey differed from those who did not respond to the survey and those who did were more supportive of *pro bono* in terms of donations to the Access to Justice Fund eligible programs and funds if not to providing service. We cannot rule out any of these three possibilities, but the last explanation would be the most worrisome since it raises the possibility that reported *pro bono* service might also be inflated by responders differing from non-responders to the survey.

- African American attorneys were somewhat less likely than white non-Hispanic or attorneys of other racial or ethnic backgrounds to make donations.
- Generally, older attorneys were more likely than younger to have made donations and larger donations, while those in the 51-60 year old age category were most likely to donate and most likely to have donated to an Access to Justice Fund eligible fund.
- Attorneys in the North and East regions of the state were somewhat less likely to have donated than others, while those in the West and South regions were somewhat more likely to have donated; however, there was no statistically significant difference across regions in the average amount of the donations to an Access to Justice Fund eligible program.

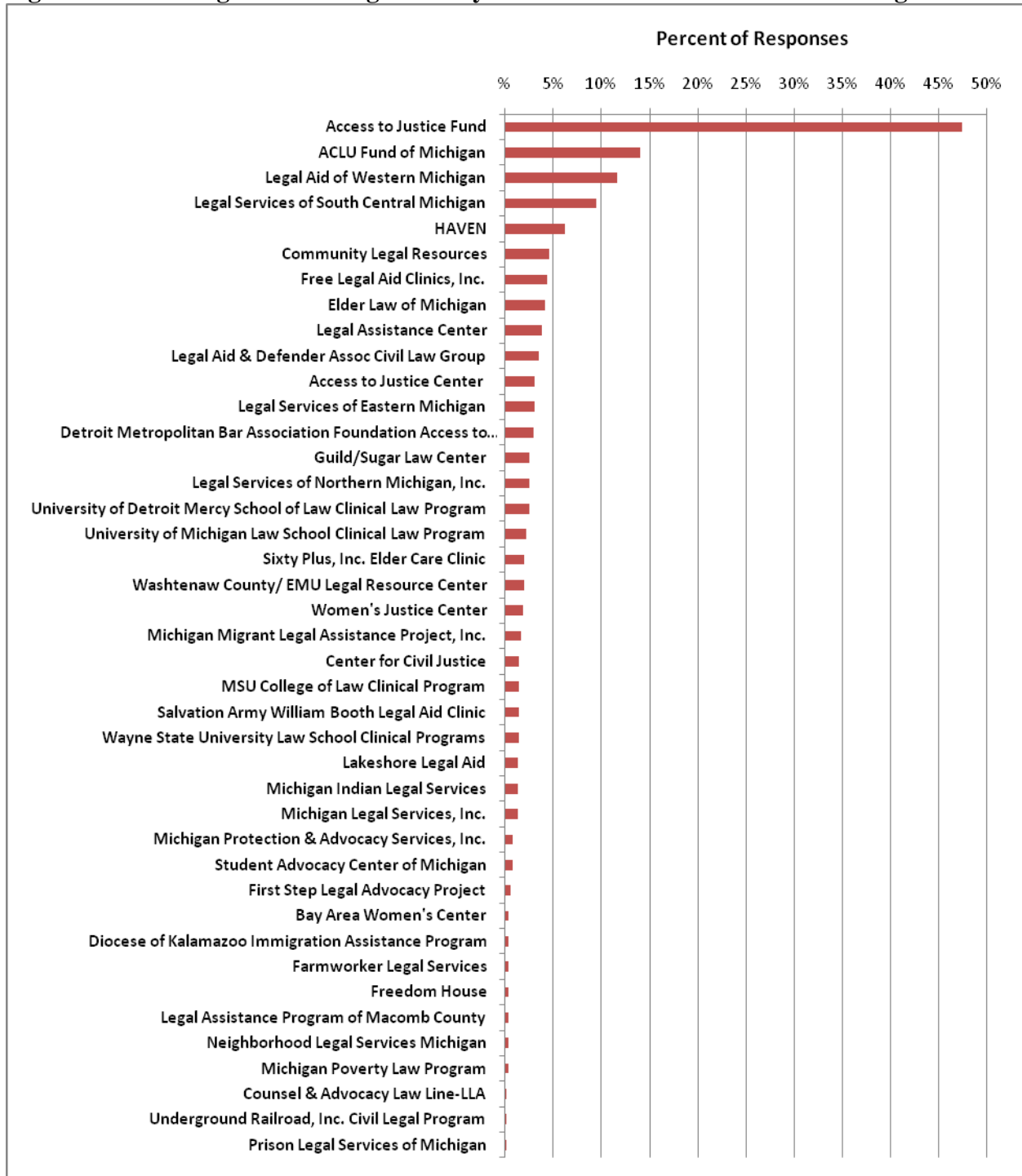
Respondents who reported giving to Access to Justice Fund eligible funds were asked to identify to which particular fund or program they contributed financially. Respondents were permitted to list up to five different funds or programs. Figure 4 shows the percentages of respondents who reported donating to each of 42 different funds or programs.

The figure indicates that, by far, the Access to Justice Fund was the single most frequently identified recipient of these attorneys' donations with nearly half (47%) indicating they gave to this fund. The American Civil Liberties Fund of Michigan was the second most frequently listed recipient (14% of donating attorneys), the Legal Aid of Western Michigan was third (12%), and Legal Services of South Central Michigan was fourth (10%). One of these four received a donation from 83% of the attorneys who donated to Access to Justice Fund eligible funds and these four accounted for 54% of all the funds identified as recipients of respondents' donations.

**TABLE 6:
Percentage of Attorneys Who Made Donations to Various Types of Legal Services Funds**

Attorney Characteristics	Made a Financial Donation to . . .				Average Donation of Those Who Donated to . . .		
	Only Access to Justice Eligible	Only Non-Access to Justice	Both	Neither	Only to Access to Justice (n=411)	Only to Non-Access to Justice (n=192)	To Both (n=128)
	%	%	%	%			
2007 SBM (all)	17	8	5	70	\$ 320.81	\$ 623.87	\$1,252.32
Gender							
Male	16	8	4	72	\$ 326.00	\$ 766.07	\$1,788.42
Female	18	9	6	67	\$ 313.07	\$ 433.11	\$ 681.63
Practice Setting							
Private	17	8	5	71	\$ 331.39	\$ 570.94	\$1,640.55
<i>Solo</i>	12	8	4	77	\$ 317.06	\$ 331.36	\$ 679.83
<i>Small (2-10)</i>	13	9	5	73	\$ 327.85	\$ 826.75	\$1,719.14
<i>Medium (11-20)</i>	22	13	3	62	\$ 222.65	\$ 355.10	\$ 100.00
<i>Large (21 or more)</i>	34	4	7	55	\$ 362.25	\$ 760.77	\$2,603.04
Corporate	15	12	2	71	\$ 316.51	\$1,141.00	\$ 466.67
Government	16	6	4	74	\$ 341.50	\$ 723.24	\$ 525.71
Academia	25	13	8	54	\$ 319.44	\$ 490.00	\$1,212.50
Legal Services	14	8	5	73	\$ 295.69	\$ 270.83	\$ 665.00
Non-Law	10	10	1	80	\$ 233.33	\$ 286.17	\$ 175.00
Judiciary	25	11	8	56	\$ 240.54	\$ 230.00	\$ 505.00
Race							
White	17	9	5	70	\$ 329.08	\$ 640.24	\$1,332.36
African American	11	3	6	80	\$ 271.36	\$ 100.00	\$ 662.14
Other	14	10	4	73	\$ 185.56	\$ 492.93	\$ 643.57
Age							
21-30	11	3	2	84	\$ 256.15	\$ 212.50	\$ 858.33
31-40	13	7	4	77	\$ 230.08	\$ 439.15	\$ 596.31
41-50	17	9	4	70	\$ 277.99	\$ 867.62	\$1,963.33
51-60	20	9	6	65	\$ 390.42	\$ 625.51	\$ 739.64
61-70	15	10	5	70	\$ 309.68	\$ 577.10	\$ 736.17
71 or older	19	7	10	64	\$ 287.50	\$ 120.83	\$5,062.50
Region of State							
Region N	10	9	3	78	\$ 380.00	\$ 191.11	\$ 819.00
Region W	22	7	7	66	\$ 356.49	\$ 909.52	\$1,873.00
Region E	11	3	3	83	\$ 235.56	\$1,733.33	\$ 275.71
Region S	18	8	6	68	\$ 306.40	\$ 939.67	\$ 926.34
Region M	16	10	4	70	\$ 318.51	\$ 459.97	\$1,361.81

Figure 4. Percentage of Donating Attorneys Who Gave to Particular Funds/Programs



Those who reported giving to organizations or groups that provide free legal services but which were not on the Access to Justice Fund listing were asked to identify the groups, organizations or funds to which they had donated. Figure 5 lists the funds these respondents identified and the percentages that reported donating to each.

Figure 5. Other Funds to Which Attorneys Donated Financially

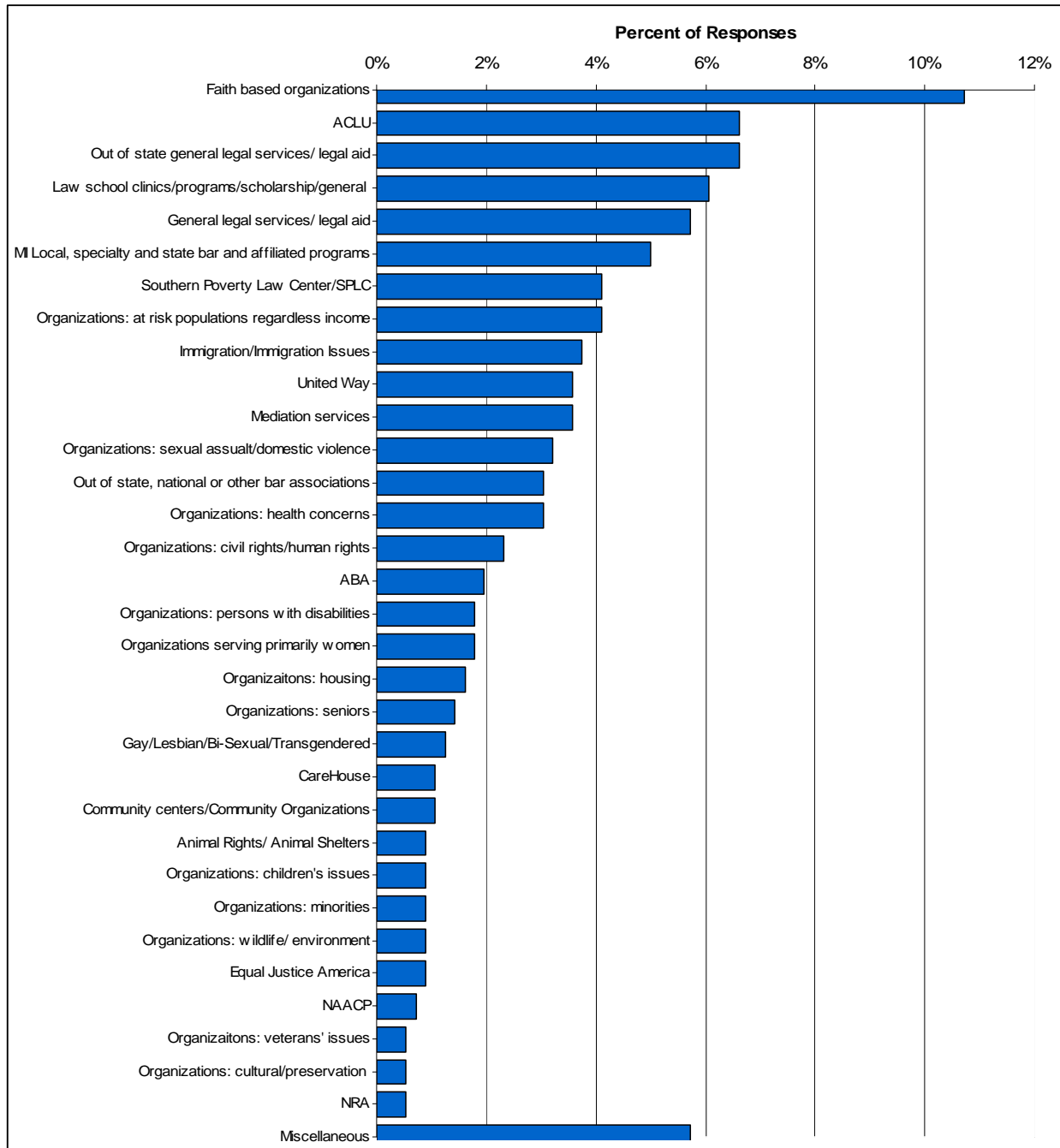


Figure 5 includes several funds or programs (e.g., the ACLU, general legal aid and law school clinics) that are in fact on the Access to Justice Fund eligible list and respondents should have included them in that portion of the questionnaire instead but did not. Some respondents made this same type of error in the 1997 survey as well.

Those who indicated they had not made a financial donation to either Access to Justice Fund eligible funds or to organizations or groups that provide free legal services but which were not on the Access to Justice Fund listing were asked if they had ever made a financial donation in lieu of or in addition to *pro bono* service over the course of their career. A third of these respondents (33%) said that they had while two-thirds said they never had. That is, 30% of Michigan attorneys reported making a financial donation to provide free legal aid to the poor in 2007, 23% reported making such a donation at some point in their career but not in 2007, and 47% reported never having made such a donation – either in lieu of or in addition to providing *pro bono* service.

How Many Meet the Standard? The Standard specifies that attorneys should provide *pro bono* service to three clients, provide at least 30 hours of free or reduced fee service to poor individuals or to organizations that serve the poor, or contribute at least \$300 to not-for-profit organizations established to deliver free legal assistance to poor individuals or organizations.

There was no question that asked respondents about the number of different clients for whom they provided service. That is, those designing the questionnaire clearly understood that the meaningful aspects of the Standard have to do with hours of service and dollars donated rather than the number of clients. This view was shared by virtually all of the participants in the focus groups and all of the *pro bono* coordinators interviewed. Therefore, estimating the rate of compliance with the Standard must depend on only hours of service and financial donations.

However, the fact that nearly all respondents answered the questions about providing service but many did not answer the later questions in the questionnaire which included the questions about donations makes estimating the compliance rate problematic. A generous approach would be to restrict the data file to only those respondents who provided an answer as to whether or not they had made a qualifying financial donation in 2007. Among this subset of respondents then, the percentage of attorneys who provided at least 30 hours of *pro bono* services, or made a financial donation of at least \$300, or did both would be defined as complying with the standard for 2007. Based on this approach, 53.7% of Michigan attorneys complied with the standard in 2007. A more conservative approach would be to assume that all respondents who did not answer the questions about donations did not actually donate. Based on this alternative, more conservative approach, 50.3% of Michigan attorneys complied with the standard in 2007.

The questionnaire included a question asking respondents to indicate if they thought they met the standard. Of those who responded, 68% indicated believing that they met the Standard for 2007. Of those who thought they met the Standard, 85% actually did based on their reported numbers of hours of *pro bono* service provided or their financial donations reported, but 15% did not. Of those who said they did not meet the Standard, 13% actually did based on the hours and dollars they reported contributing, while 87% were correct that they had not met the Standard.

Altogether, 4% of the respondents did not think they had met the Standard but really had and 10% thought they had met the Standard but really had not – a total of 14% who seemed to not understand the Standard correctly. Since more of those who erred had reported not doing as much as would be required to meet the Standard, these findings suggest that one way to increase compliance would be to clarify and publicize further what the Standard is, what does and what

does not count as *pro bono* under the standard and why it is critical to move to 100% compliance.

This section of the report was focused on answering the question, “has *pro bono* activities in Michigan increased, decreased, or stayed the same since 1997?” The answer appears to be dependent on several assumptions. Looking only at the data from the two surveys, one would conclude that:

- there appears to have been a decrease in the percentage of attorneys who provided *pro bono* service (71% in 1996 vs. 68% in 2007);
- there appears to have been a decrease in the average number of hours of free or reduced-fee hours attorneys provided, from 82.47 to 76.21; but,
- there appears to have been a slight increase in the average financial donation of attorneys, from \$109.89 in 1996 to \$112.08 in 2007.

However, the 2008 survey of 2007 activities had much more explicit definitions as to what activities to count as “*pro bono*” activities that were not present in the 1997 questionnaire. It is plausible that, in answering the questions about *pro bono* activities, some respondents to the 1997 survey may have included activities that would not have been included in 2008 because of the definitions. If so, the 71% reported for 1996 would be inflated from the ‘true’ rate. If this assumption is correct, then there was probably no decrease in the percentage of attorneys who provided *pro bono*. If the over-reporting was more than 3% then it may be that there was an actual increase.

Additionally, as the comparison to the ABA survey finding indicated, a shift in the relative proportions of attorneys across practice settings among those who responded to the 1997 survey vs. the 2008 survey could also alter the interpretation as to whether an increase or a decrease occurred.

The total hours of service provided depended very much on what activities were considered by respondents to qualify as *pro bono* activities to report. Consequently, if the over-reporting possibility described above occurred, there would be a concomitant inflation of the hours of service provided. Therefore, it is possible that the wording differences in two questionnaires could account for the apparent decline in hours of service provided rather than there actually having been a decline.

Also, in assessing donations, the average donation for both 2007 and 1996 were calculated based on the total sample sizes of respondents for each survey. There was, however, some indication of possible non-response bias in the 2008 survey results regarding donations that, if true, would suggest the average is inflated. We would suspect the same type of bias in the 1997 survey’s results but we have no way to ascertain if that suspicion is correct. If the same type and magnitude of bias occurred in both surveys then the comparison between the two surveys regarding a trend in donations is unaffected.

Based on the results and the possible impacts of the differences in questionnaire wording and calculations, the conservative conclusion is that there has been little change in the rate and amount of *pro bono* activity (both services and donations) in the state.

The estimated total amount of *pro bono* services provided, the estimated value of those services, and the estimated total amount of funds donated to providing legal services for the poor provide strong evidence of the extent to which attorneys believe in and are committed to *pro bono*. This will be explored further in a later section.

What Types of Cases Are Handled and What Types of Services Are Provided?

Respondents who reported providing free civil legal services to poor individuals or organizations that serve the poor were asked to indicate into which areas of law the cases fell. Respondents were asked to check all of the ten categories of law that applied. Figure 6 indicates that, of those who reported providing free civil legal services to poor individuals, 45% indicated cases involved family law, 31% involved housing law, 29% indicated cases involved consumer law.

This represents a considerable shift in the types of law involved compared to 1996. The 1997 survey found that 54% of the attorneys reported their *pro bono* cases involved family law (vs. 45% in 2007), 26% involved housing law (vs. 31% in 2007), 22% involved consumer or bankruptcy law (vs. 41% in 2007), 27% involved wills, and estate planning or probate administration (vs. 35% in 2007).

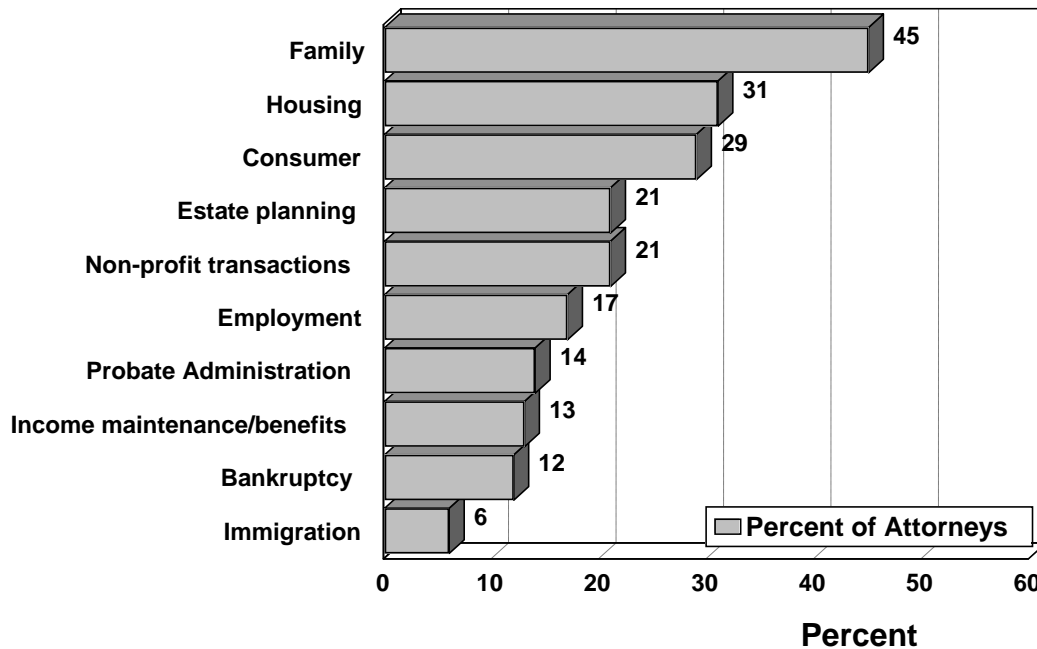
Table 7 shows the percentages of attorneys within demographic groups or practice settings that reported working on *pro bono* cases involving each of these different types of service. The table indicates that:

- Female attorneys were more likely than male attorneys to have provided *pro bono* services involving family law and estate planning, while male attorneys were more likely to have provided *pro bono* services involving housing, consumer law, bankruptcy, and employment.
- Private practice attorneys were more likely than corporate attorneys to have provided *pro bono* services involving family law and estate planning, but less likely than corporate or government attorneys to have provided services involving housing, employment, and non-profit transactional services.
- Among private practice attorneys, those in smaller firms were generally more likely than those in larger firms to have provided *pro bono* services involving family law, income maintenance benefits, consumer law, and estate planning, but less likely than those in larger firms to have provided *pro bono* services that involved non-profit transactional services.
- White attorneys were less likely than African American attorneys to have provided *pro bono* services that involved consumer law, while both were less likely than attorneys of other racial/ethnic backgrounds to have provided services that involved immigration law.
- Attorneys from the North and East regions of the state were more likely than those from the other regions to have provided *pro bono* services that involved family law and estate planning, those from the North region were more likely than others to have provided services that involved housing law, and those from the North and West regions were

more likely than others to have provided services that involved income maintenance or benefits.

Figure 6.

Percentage of Attorneys Providing *Pro Bono* Who Provided Service Involving Various Types of Law

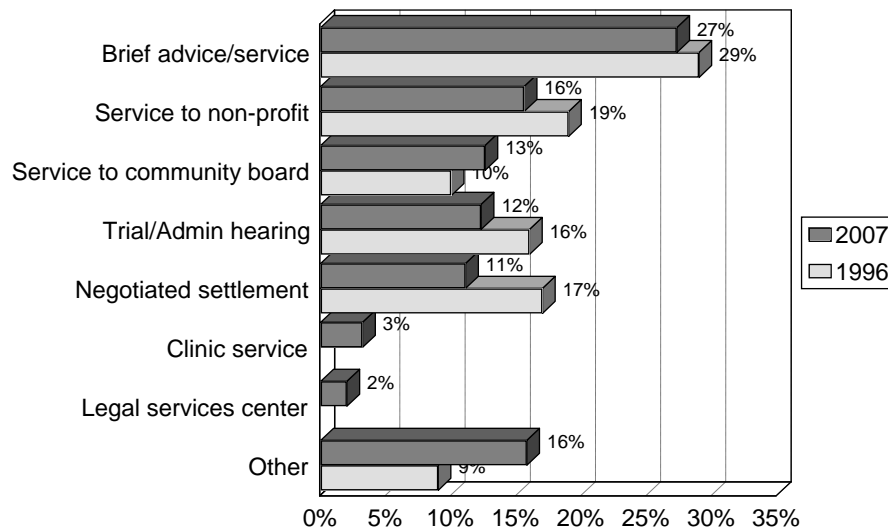


A quarter (25%) of attorneys who provided *pro bono* services in 2007 said they provided types of services other than the ten listed. When asked to indicate specifically what other kinds of legal issues their service concerned, a number of respondents mentioned administrative law matters, adoption, animal law, business startup, intellectual property, civil liberties, debt collections, disability issues, domestic relations, elder law, guardianship, health care or health law, insurance issues, tax issues, mediation services, personal injury, real estate, Social Security issues, traffic issues, veteran's issues, and zoning issues.

Respondents were also asked to indicate the approximate percentage of hours of *pro bono* service they provided that involved each of eight different kinds of activities. As Figure 7 illustrates, brief advice or brief service represented, on average, more than a quarter of the time

Figure 7.

Average Percentage of *Pro Bono* Time Provided Spent on Various Kinds of Service: 2007 vs. 1996



attorneys spent doing *pro bono* activities (27.5%), while time spent providing clinic services and helping at legal services centers represented, on average, only 3% and 2% of their total *pro bono* hours respectively. The figure also indicates a fairly similar percentage distribution of time between the 2008 and 1997 surveys, although it does appear that there was an increase in 2007 in the percentage of time spent in types of service activities that did not fit into the categories provided on the questionnaire, even though it included two additional categories than were listed on the questionnaire in 1997.

Table 8 shows the average percentage of the attorneys' *pro bono* hours contributed to each of these eight kinds of service among the various demographic and practice setting groups of lawyers. Except for rounding error, the sum of the average percentages in each row is 100%.

Table 8 indicates that:

- On average, female attorneys spent a slightly greater percentage of their time providing clinic services than did male attorneys.
- Private practice attorneys, on average, spent a larger percentage of their time negotiating settlements and participating in a trial or administrative hearing, but a smaller percentage of their time providing services to a non-profit organization or serving on the board of a non-profit community organization.
- Among private practice attorneys, those in smaller firms, on average, spent a greater percentage of their *pro bono* hours participating in trials or administrative hearings, while

those in larger firms spent a relative greater percentage of their *pro bono* hours serving on non-profit community organization boards.

TABLE 8: Average Percentage of Time Contributed Spent on Various Types of Activities, by Demographic and Practice Setting Characteristics								
Attorney Characteristics	% of Contributed Time Spent In Various Kinds of Activities*							
	A	B	C	D	E	F	G	H
2007 SBM (all)	27.5	11.4	12.8	3.2	1.9	15.1	12.6	15.4
Gender								
Male	27.8	11.8	13.0	2.5	1.9	15.3	12.8	14.9
Female	26.9	10.5	12.3	4.6	1.8	14.8	12.4	16.6
Practice Setting								
Private	28.3	11.9	14.6	3.1	1.7	13.6	11.4	15.3
<i>Solo</i>	29.7	12.3	17.5	3.0	1.7	10.7	8.1	16.4
<i>Small (2-10)</i>	27.8	12.5	15.8	3.3	1.5	13.1	11.6	14.1
<i>Medium (11-20)</i>	29.7	10.8	6.8	3.3	2.2	13.4	19.9	13.8
<i>Large (21 or more)</i>	25.5	9.4	8.9	2.9	2.0	20.8	14.7	15.9
Corporate	24.4	8.3	7.3	4.0	1.6	22.2	15.1	17.1
Government	25.7	7.4	6.1	2.1	2.0	20.0	18.8	18.0
Academia	26.0	9.5	6.7	7.0	3.8	17.5	14.3	15.2
Legal Services	27.1	13.2	13.2	3.6	2.7	13.7	12.3	14.1
Non-Law	27.1	8.1	5.4	1.2	3.8	27.6	17.9	8.8
Judiciary	21.3	13.5	3.5	0.0	0.0	20.6	27.3	13.8
Race								
White	27.7	11.3	12.6	3.4	1.8	15.3	12.6	15.3
African American	23.8	8.3	14.1	2.1	2.4	14.6	15.0	19.7
Other	27.1	14.2	14.8	2.1	2.5	13.8	11.5	13.9
Age								
21-30	29.8	15.1	14.4	4.0	1.8	13.8	8.2	12.9
31-40	28.1	12.9	13.8	4.4	1.9	12.3	9.7	17.0
41-50	26.8	12.0	13.2	2.6	1.7	15.3	12.7	15.4
51-60	26.5	10.1	11.1	3.4	1.9	16.7	14.8	15.5
61-70	28.1	10.6	14.2	2.0	2.3	15.7	12.9	14.2
71 or older	34.3	8.1	12.2	3.4	0.7	13.8	12.5	15.1
Region of State								
Region N	33.2	10.9	8.2	3.1	1.4	16.5	13.6	13.1
Region W	25.8	11.5	10.7	6.1	2.1	16.1	16.9	10.7
Region E	16.7	11.7	16.8	3.5	1.6	11.1	15.6	12.9
Region S	27.7	10.1	13.0	2.2	2.3	16.2	13.1	15.1
Region M	27.3	11.9	13.3	2.7	1.7	14.8	10.6	17.6
*A = Brief advice or brief services B = Negotiated settlement C = Trial or administrative hearing D = Clinic service E = Legal service center F = Service to another non-profit organization G = Service on non-profit board of community organization H = Other activities, not otherwise listed								

- Compared to younger attorneys, older attorneys spent a greater percentage of their contributed *pro bono* hours serving on the boards of non-profit community organizations.
- On average, attorneys reported spending about 15% of their hours of *pro bono* service on activities other than the seven listed. When asked to mention what these other activities were, many respondents listed specific examples that could actually have been included among the other seven categories, such as giving advice to various individuals or groups. However, a number of respondents also mentioned preparing documents or cases, legal research, and speaking to groups or giving presentations.

Do Most Lawyers Believe in and Support Pro Bono?

The previous section documented the proportion of attorneys who participated in *pro bono*, contributing their time or their money in support of legal services for the poor or others and the types of cases that they handled. The question is whether attorneys perform *pro bono* service out of conviction or feel compelled by the Standard or other more pragmatic motives.

In order to examine the relationship between various attitudes and *pro bono* participation, the questionnaire included seven opinion questions to gauge the attitudes of attorneys toward *pro bono* service to the poor. Respondents were presented seven statements describing particular attitudes toward *pro bono* which they were then to indicate how strongly each applies to the respondent personally. Respondents were provided six possible responses for each item that ranged from 'does not apply to you' to 'strongly applies to you.' The responses were scored from 0 to 5. The seven items were as follows:

1. *Pro bono* service gives me a sense of personal satisfaction.
2. I feel *pro bono* service is important to support the State Bar of Michigan, my local bar association, a legal services organization or another community organization or cause.
3. *Pro bono* service is part of my professional responsibility.
4. I look at *pro bono* service in terms of long term potential for referrals.
5. I like the training, materials and other benefits available to members of the *pro bono* panel.
6. I like the recognition I get from my *pro bono* service (e.g., my name or my office's name is published in a bar association publication, I may be nominated for an award for *pro bono* service).
7. My office requires that I do *pro bono* service

The first six of these items were included on the 1997 SBM survey. At that time the results were reported by calculating the average score (from 0 to 5) for each item among the responding attorneys. Table 9 shows the average score for each item in 2008 compared to 1997 and the percentage of respondents who gave each response to each item.

Questionnaire Item	1997		2008					
	Ave. Score	Ave. Score	% of Respondents Who Answered . . .					
			Does Not Apply to Me=0	1	2	3	4	Strongly Applies to Me=5
1 <i>Pro bono</i> service gives me a sense of personal satisfaction	4.04	3.63	5.0	6.2	9.3	18.2	22.7	38.6
2 I feel <i>pro bono</i> service is important to support the State Bar of Michigan, my local bar association, a legal services organization or another community organization or cause.	3.15	3.34	6.6	10.5	11.7	17.0	21.8	32.4
3 <i>Pro bono</i> service is part of my professional responsibility.	3.91	3.50	6.1	8.4	10.7	16.3	21.5	37.0
4 I look at <i>pro bono</i> service in terms of long term potential for referrals	1.32	1.07	46.6	26.1	11.9	8.0	4.5	2.9
5 I like the training, materials and other benefits available to members of the <i>pro bono</i> panel	0.78	0.67	65.2	17.5	8.5	4.5	2.3	1.9
6 I like the recognition I get from my <i>pro bono</i> service (e.g., my name or my office's name is published in a bar association publication, I may be nominated for an award for <i>pro bono</i> service).	0.67	0.59	65.9	20.2	7.2	4.0	1.6	1.2
7 My office requires that I do <i>pro bono</i> service	NA	0.33	85.2	7.0	3.0	1.7	0.9	2.2

Items 1-3 are statements representing views that *pro bono* service is intrinsically valuable and, therefore, answers indicating that these views apply to the respondent indicate a belief in *pro bono* as a social, moral, professional, or ethical good. Items 4-7 are statements representing views that *pro bono* is a means to some self-serving extrinsic benefit or is motivated to avoid penalty rather than out of personal conviction. For these items, answers indicating the respondent does not think the statement applies to himself or herself indicates a belief in *pro bono* as a social or ethical good.

The table indicates that 61% of respondents answered either 4 or 5 to item 1, 54% answered 4 or 5 to item 2, 59% answered 4 or 5 to item 3, 73% answered 0 or 1 to item 4, 83% answered 0 or 1 to item 5, 86% answered 0 or 1 to item 6, and 92% answered 0 or 1 to item 7. That is, the majority of responding attorneys gave the two answers that most represent a belief in *pro bono* service as a good in itself to each of the seven opinion statements.

These survey responses were illustrated by some of the comments of participants in the focus groups from Detroit to Marquette:

- “There is something intangible that you take away from these cases when you do them. I mean you get something back.”
- “That sense ... of justice being served, ... that’s valuable, ... for the days when everything is going badly.”
- “There is a good feeling that comes back to you for doing it.”
- People who don’t do pro bono “don’t understand how valuable it would be to them.”
- “They’re generally a painful process no matter what, because we went through it all. For me it was, we got a good result, it was a just result, it wouldn’t happen without my involvement. So something good happened because of what we did and hopefully it was for someone that deserved it.”
- “An easy process would just like be a bonus on top of the result.”
- “The best thing about it is it makes you feel good when you’ve done something for somebody, and you haven’t charged them, and you’ve been successful in helping them. That’s what it does for you, it makes you feel good.”
- One respondent spoke of “how much joy you get out of it, and how the recipients – what happens to them, that they get to stay at their house or they get benefits that they thought they never had and things like that. I don’t think there’s enough focus on the result, the positive result.”

The table indicates that the mean scores for items 4, 5 and 6 were lower in 2008 than in 1997 while the mean score for item 2 was greater in 2008 than in 1997 suggesting an increased belief in *pro bono* among attorneys, but the mean score for items 1 and 3 were lower in 2008 than in 1997. As a result, it is a bit difficult to tell whether overall attitudes toward *pro bono* have improved or not.

This assessment would be much clearer if a single summary score of responses to the six items common to both the 1997 and 2008 surveys were constructed. To do this, however, high scores on each item must have the same meaning or interpretation. Therefore, the scoring of responses to items 4-6 have been reversed from 0 to 5 to 5 to 0. Scores for each of the six items were then combined into a single composite scored averaged across six responses so that the final composite score would be 5 if the respondent gave the answer representing that indicated the strongest personal support of *pro bono* as a social, ethical good to each of the six items, a score of 0 if they always gave the answer that indicated the opposite view.

The overall average composite score to the six items in 1997 was 3.89. The overall average composite score to the same six items in 2008 was 3.86. That is, there was no significant change in the views of Michigan attorneys about *pro bono* from 1997 to 2008.

While there appears to have been no change in the overall belief in *pro bono*, it is still the case that a substantial majority of attorneys gave answers indicating a supportive belief in *pro bono*. For 2008, 67% of responding attorneys had average composite scores of 3.5 or greater on the scale from 0 to 5 where the mathematical midpoint is 2.5.

In developing strategies for encouraging more attorneys to provide *pro bono* services or for encouraging attorneys to provide more *pro bono* service, it may be helpful to determine which types of attorneys are currently less likely to believe in *pro bono* service. Therefore, Table 10 shows the percentage of attorneys within various demographic or practice setting categories that had composite average scores of 3.5 or greater as well as the average score of attorneys within the category on each of the seven opinion items.

Attorney Characteristics	Composite Belief Score \geq 3.5	Average Score (0-5) to Item. . .						
	%	1	2	3	4	5	6	7
2007 SBM (all)	67	3.63	3.34	3.50	1.07	0.67	0.59	0.33
Gender								
Male	65	3.53	3.21	3.42	1.08	0.65	0.60	0.35
Female	70	3.81	3.58	3.63	1.04	0.70	0.57	0.29
Practice Setting								
Private	66	3.65	3.31	3.59	1.31	0.64	0.62	0.35
<i>Solo</i>	62	3.62	3.20	3.52	1.42	0.68	0.52	0.11
<i>Small (2-10)</i>	69	3.69	3.31	3.67	1.36	0.63	0.58	0.22
<i>Medium (11-20)</i>	61	3.51	3.32	3.43	1.16	0.54	0.69	0.35
<i>Large (21 or more)</i>	70	3.70	3.54	3.67	1.05	0.59	0.87	1.09
Corporate	65	3.37	3.16	3.26	0.54	0.80	0.54	0.48
Government	67	3.38	3.28	3.01	0.40	0.54	0.42	0.10
Academia	86	4.07	3.70	3.89	0.53	0.39	0.62	0.37
Legal Services	68	3.92	3.53	3.79	1.21	1.01	0.69	0.48
Non-Law	66	3.65	3.17	3.33	0.75	0.50	0.31	0.05
Judiciary	69	3.56	3.66	2.98	0.66	0.76	0.59	0.08
Race								
White	67	3.61	3.32	3.49	1.03	0.63	0.57	0.32
African American	68	3.88	3.55	3.49	1.25	1.04	0.66	0.46
Other	62	3.72	3.35	3.54	1.39	0.99	0.67	0.41
Age								
21-30	59	3.94	3.67	3.73	1.80	1.36	0.99	0.57
31-40	62	3.66	3.41	3.50	1.45	0.83	0.73	0.50
41-50	68	3.65	3.30	3.46	1.08	0.66	0.59	0.32
51-60	68	3.57	3.29	3.44	0.88	0.57	0.53	0.28
61-70	71	3.64	3.36	3.54	0.83	0.52	0.45	0.23
71 or older	68	3.55	3.20	3.75	0.85	0.62	0.40	0.15
Region of State								
Region N	72	3.63	3.39	3.60	1.15	0.56	0.45	0.31
Region W	71	3.58	3.47	3.60	1.00	0.62	0.62	0.35
Region E	65	3.55	3.30	3.41	1.22	0.62	0.48	0.15
Region S	70	3.69	3.34	3.51	1.00	0.65	0.56	0.33
Region M	64	3.63	3.30	3.46	1.08	0.71	0.62	0.35

The table indicates that:

- Females were somewhat more likely than males to believe in *pro bono* (70% vs. 65%), and especially regarding the first three items.

- There were no significant difference overall in the percentages who believe in *pro bono* among private practice, corporate, and government attorneys; however, there were some differences by firm size within private practice attorneys and among all attorneys.
 - Attorneys in academia were the most likely to have composite scores greater than 3.5 (86%).
 - Attorneys in solo practice and medium sized firms were less likely than others to have composite scores above 3.5.
- There were significant differences regarding the average scores on the seven items across practice settings with differences that generally reflect the pattern describe above.
- Younger attorneys were less likely than the older counterparts to have composite scores of 3.5 or greater; they also tended to have higher mean scores on items 4-7.
- There were no appreciable differences among attorneys in the different regions or of different racial/ethnic groups.

Overall, then, there appear to be relatively few differences in the attitudes of the various categories of attorneys in the state regarding *pro bono* as a social, ethical good. The principal differences of opinion among attorneys seem linked to the age, practice setting and gender of the attorneys. It is important to recall, however, that, although female attorneys seemed to believe more in *pro bono* than males, they were somewhat less likely than males to provide *pro bono* services – suggesting that structural factors (such as practice setting) may be a more powerful determinant of service than just opinions.

The questions regarding respondents' reasons for doing *pro bono* were only asked of those who have done at least some *pro bono* service in the past, so the data do not permit a comparison of the attitudes toward *pro bono* between those who have done *pro bono* and those who have never done *pro bono*. However, there were differences in the attitudes of those who provided *pro bono* services or donated in 2007 compared to those who provided or donated in the past but not in 2007.

Compared to attorneys with lower composite attitude scores, attorneys with scores of 3.5 or greater:

- Were more likely to have provided some *pro bono* service in 2007 compared to those who had scores below 3.5 (76% vs. 58%).
- Reported contributing an average of 100.7 hours of *pro bono* service if they had provided service compared to an average of 71.7 hours among those with composite scores below 3.5 who had provided some *pro bono* service.
- Were more likely to have made a financial donation to either an Access to Justice Fund eligible fund or another program providing free legal assistance to the poor in 2007 (36% vs. 22%) or ever (61% vs. 45%).
- Reported donating an average of \$181.82 if they had donated in 2007 compared to an average of \$57.87 among those who had donated in 2007 with composite scores below 3.5.

Similarly, later in the questionnaire, respondents were asked whether or not they felt personally bound by the Voluntary *Pro Bono* Standard as a State Bar of Michigan member. Nearly six out

of ten respondents (56%) indicated that they did while the remainder said they did not. Those who indicated feeling bound by the Standard:

- Were more likely than their counterparts to have composite attitude scores of 3.5 or greater (81% vs. 63%),
- Were more likely to report having provided *pro bono* service in 2007 (73% vs. 56%, or ever in their career (95% vs. 88%), and to have provided more hours of service in 2007 when they did,
- Were more likely to report having donated financially in 2007 (61% vs. 49%) than their counterparts who did not feel bound by the Standard.

That is, attorneys' attitudes about *pro bono* and their commitment to the Voluntary Standard were associated with the likelihoods of providing services or donating financially toward that cause as well as the amounts of those contributions.

Respondents were asked to indicate any other reasons they had as to why they do *pro bono* service. Nearly 600 respondents provided a reason. Many indicated they feel they have a responsibility to serve others because of a civic or social duty (15%), because of their Christian faith or other religious or moral responsibility (10%), because of their professional duty (8%). Many do so because they feel a need to ensure access to legal representation for those who cannot afford it otherwise (14%), because there is a need they can help address (11%), because they want to help family, friends, groups or causes in which they believe (10%), because they were asked (3%), because they empathize with or have sympathy for those in need (7%), because they feel they should "give back" to the community (5%), because they enjoy helping others (5%), because they hope to improve the image of lawyers (2%), because they have a special expertise few others can provide (1%), because it provides an interesting diversion from their usual activities (1%), or miscellaneous other reasons (10%). Many of these simply said "it is the right thing to do."

Do Lawyers Understand What Pro Bono Is and Is Not?

Near the end of the questionnaire, respondents were again provided a description of the Voluntary *Pro Bono* Standard and were then asked whether or not they were aware of the Standard, whether they felt personally bound by the standard, how they adhere to the Standard and whether or not they met the Standard in 2007. At this point in the questionnaire, a number of attorneys who had begun to provide responses to the questionnaire had discontinued so the number of individuals who answered these questions was appreciably less than answered earlier questions. Therefore, results will be reported based only on those who provided an answer, but it is somewhat likely that those more familiar with or more committed to *pro bono* would be the respondents who continued answering questions to the end.

Among all responding attorneys, 70% said they were aware of the Voluntary *Pro Bono* Standard, 56% said they felt personally bound by the Standard, 24% said they adhere to the Standard by providing service, 17% by making a financial donation, 48% by doing both providing service and donating money, and 68% claimed they met the Standard in 2007. Interestingly, more respondents claimed to have met the Standard than reported feeling personally bound by it.

The attorneys who reported being aware of the Standard were also more likely than their counterparts (76% vs. 50%) to claim they had met the standard in 2007. Those who said they felt personally bound by the Standard were more likely than their counterparts (81% vs. 53%) to claim they had met the Standard in 2007. Curiously, 5% of those who said they do not do *pro bono* or make financial contributions also claimed they had met the Standard in 2007.

As was noted earlier, of those who claimed they met the Standard, 15% did not report sufficient numbers of hours of qualifying service provided or donations that did, in fact, meet the Standard. On the other hand, it was also noted earlier that 13% of those who believed they had not met the Standard actually did, based on their reported donations (all types) or hours of *pro bono* service provided.

Overall, 86% of the respondents provided an answer regarding whether or not they had met the Standard in 2007 that was consistent with their reported hours of *pro bono* service provided or financial donations made. This suggests that more than eight out of ten attorneys correctly understand what *pro bono* is. The remaining 14% either counted activities or services as *pro bono* they should not have, failed to report all of their qualified service hours or donations, or did not give themselves as much credit as they deserved. Especially in the case of those who thought they had met the Standard but actually had not, some may have, in their thinking, included activities as *pro bono* that they should not have.

The questionnaire include a battery of questions regarding the circumstances in some of the respondents' past *pro bono* cases that led them to decide the case was *pro bono*. Eleven specific circumstances were listed plus an 'other' for which respondents were asked to specify what the other circumstances were. For each item listed, respondents were asked to indicate whether it was or was not a circumstance that led them to consider the case to be *pro bono*.

The eleven items listed and the percentages of respondents who indicated they had used that particular circumstance to decide one of their cases was *pro bono* are provided in Table 11 for both 2008 and 1997.

The table indicates that, in 2007, more respondents used the source of a referral (i.e., from the local or SBM lawyer referral service, a local bar association, a social service agency, a church or community organization, friends or acquaintances, or the office *pro bono* committee) as a basis for deciding a case was *pro bono* while fewer reported deciding to regard a case a *pro bono* based on having interviewed the client ahead of time. In 2007, more respondents than in 1996 also reported deciding a case was *pro bono* when a client could not afford to pay the fees.

Of the first eleven items listed, several are reasonably likely valid bases for deciding to consider a case as *pro bono*, some are not. Item 10 is clearly at odds with both the SBM and ABA guidelines as to what may be considered *pro bono*. Yet 42% of the respondents said they had decided to consider some cases in circumstances like this to be *pro bono*. Item 11 is also at odds with SBM and ABA guidelines and item 2 is probably at odds. On the other hand items 1, 3, 7, and 9 clearly represent circumstances when deciding to consider a case as *pro bono* would almost certainly have been correct, while items 4, 5, 6 and 8 represents circumstances where the decision was probably correct.

**Table 11:
Percent of Attorneys Who Used Various Circumstances to Decide a Case Was *Pro Bono*:
2007 vs. 1996**

Circumstance of Case	% Used to Decide	
	2007	1996
1. When I got a referral from legal services.	33	31
2. When I got a referral from the local or State Bar of Michigan's lawyer referral and information services	12	5
3. When I got a referral from a local bar association.	15	5
4. When I got a referral from a social services agency	24	8
5. When I got a referral from a church or community organization	42	19
6. When I got a referral from my friends or acquaintances.	59	22
7. When I got a referral from my law office's <i>pro bono</i> committee.	11	3
8. When a person or organization not mentioned above referred me to a case.	33	6
9. When I interviewed the client and agreed to take the case.	48	59
10. When a client could no longer afford to pay my fees.	42	34
11. When I was appointed.	21	19
12. Other.	11	Not Reported

The confusion as to what should validly be considered as *pro bono* for purposes of meeting the Standard was illustrated by a number of comments in the focus groups. In these cases there were administrators or coordinators in the firm to help clarify, educate and hold accountable other attorneys. One might expect the same errors as well in other practice settings but where there is no one to correct the misunderstanding:

- *"The only people I've really represented are people I do get paid for, but it's such a nominal amount, so I suppose it is a bit pro bono in one sense that I'm not getting paid a significant amount."*
- *"There's also a lot of misinformation about what is pro bono legal work. A lot of my attorneys--and we've gotten better at this--they would turn in regular types of volunteer activities that they were doing and I'd say, 'That's not...' The whole point of this is realize lawyers add something special to society, and the fact that you're working in a soup kitchen or that you're on this council is great, but we're looking for legal work, something where you're adding a special extra thing."*
- *"I've had that exact one. This week when I looked over the numbers, I noticed an attorney who had 600 hours pro bono. I said, 'Wow that's awesome!' He was billing – he's like chairman of the [ORGANIZATION NAME] he's billing chairmanship with the [ORGANIZATION NAME] as a pro bono commitment. ... THE ORGANIZATION -- It's like a coalition of [INDUSTRY] organizations assigned by large corporations who get sued a lot."*
- *"Free work is not pro bono work. 'I had to write it off, so I'll transfer it over to pro bono.'"*
- *When asked how often the respondent has to deal with this, he/she replied, "Once per attorney! I look at it; I go tell them what pro bono is, and they don't tell me that other stuff any more."*
- *"It doesn't happen at our firm any more since we revamped our policy, because in addition to the group leaders' approval of the file opening or the matter opening, someone from the pro bono committee has to look at it and say, 'Is this qualified pro bono or non-qualified pro bono?' You can write down whatever you want for your church's building committee, that can be a pro bono in the loose sense, but if you want billable hour credit it's gotta be ..."*
- *"In order to get the particular billing code, it's got to go through the Executive Committee, and if they Executive Committee signs off, yeah that's pro bono – okay that's their call. Otherwise you can't just unilaterally assign it to pro bono and take credit for it."*

- *“There are a lot of reasons why we’ll do work for free. You know business development, we want to maintain a relationship with this judge, blah, blah, blah, blah. This particular lawyer had given me 10 reasons why we should be doing it for free, but I said we have rules, national standards that we need to comply with, and so before I can assign the label of pro bono, you have meet these certain hurdles. ... I think all of us have experiences where they’re trying to dump the time, but more and more, I find that they’re not trying to dump the time, they just want to see, ‘Will it fit? Can I fit it in this box? Will it fit in this box? This box is better than PD time or write off time.’ I think it’s just part of education, because there are lots of different boxes that your time can fit in.”*

However, other comments from focus group participants indicated a generally correct understanding as to what does or does not qualify as *pro bono*:

- *One respondent stated that pro bono is “free simple legal aid. Like if someone has a problem, you say, ‘Okay I’ll help you fill out the form, and there you go.’ That’s what I define it as.”*
- *“If somebody comes in and I agree to do something for that client for 50% of my normal fee, to me that’s not pro bono. Pro bono is free as far – that’s my definition of pro bono.”*
- *“I’m with _____ on that one. Even though I think it’s definitely honorable to do things at a reduced – but I feel the same way. A lot of times I’ll pass up that small amount of money because I think a lot of headache comes with it. I like the idea of the relationship, I’m helping you; I’m going to do the best I can, it’s going to be on my time.”*
- *When asked whether “taking a case for free for your brother-in-law “ qualifies as pro bono, a respondent replied, “Not unless he qualifies 125% of poverty. I mean there’s a definition.”*
- *One respondent said that he/she doesn’t consider court appointed work as pro bono, because it is revenue generating, even if it isn’t profit generating. However, he/she does work for church members or others where the actual representation is free to the clients, but the court recorder costs and such are reimbursed by their church or the ADF.*
- *Another said, “When I practiced, pro bono, to me, meant no charge, you just do it. And I was a solo practitioner, and I didn’t even have staff, so I absorbed everything. And that was that. So, pro bono meant free.”*
- *And another: “I don’t really consider the court-appointed pro bono, per se, because I am getting somewhat of a fee, and that is why I supplement it with the Salvation Army, where I absolutely get no fee from that, and I also ... get some referrals from my pastor at my church, and my pastor doesn’t write me a check, unfortunately, so if I help somebody out in church, it’s really completely free.”*

Consequently, the items listed in Table 11 represent four categories of decisions to consider cases as *pro bono* – very likely correct decisions, probably correct decisions, probably wrong decisions, and very likely wrong decisions. This enables various groups of attorneys to be compared regarding their relative rates of probably wrong and very likely wrong decisions.

Among all responding attorneys who had reported ever doing *pro bono*, 70% reported having decided to considered cases to be *pro bono* under circumstances in which these were Very Likely Correct decisions, 78% reported having decided to consider cases to be *pro bono* under circumstances in which these were Probably Correct decisions, 12% reported having decided to consider cases to be *pro bono* under circumstances in which these were Probably Wrong decisions, and 50% reported having decided to consider cases to be *pro bono* under circumstances in which these were Very Likely Wrong decisions.

The question was clearly not focused on only 2007 cases but could apply to any case over the courses of the respondents’ professional careers. So it would be reasonable to find these errors in deciding a case was *pro bono* across all categories of attorneys and practice settings. The question, however, is whether or not those who thought they had met the Standard when they had not were more likely to commit these mistakes than others.

The data indicate that they were not more likely than others to have made this error. Roughly forty-six out of a hundred respondents who thought they had met the Standard when they had not reported having had at least one case they decided to consider *pro bono* that was very likely a wrong decision based on the circumstances through which the attorney received the case but so too did roughly forty-six out of a hundred of those who correctly claimed to have met the Standard and those who correctly claimed they had not met the Standard, and those who incorrectly claimed not to have met the Standard.

Similarly, there was no appreciable difference in the percentage of attorneys who had decided to consider at least one case as *pro bono* that was probably a wrong decision and those who accurately believed they had or had not met the Standard or were mistaken in this.

Table 12 shows the percentages of attorneys who were aware of the Standard, felt personally bound by it, believed they met the Standard in 2007, were incorrect in their judgment, and had at some point in their career mistakenly counted a case as *pro bono* because the client could no longer afford the legal fees being charged or the lawyer had been appointed among the various demographic and practice setting categories of attorneys.

Table 12 indicates that:

- Awareness of the Standard was fairly uniform across demographic and practice settings of attorneys, except that attorneys in large private firms were somewhat more likely to report being aware of the Voluntary *Pro Bono* Standard than were other private practice attorneys or other attorneys generally; those from the North and Metro regions were somewhat less likely to report being aware of the Standard.
- Younger attorneys were more likely to report feeling personally bound by the Standard than were their older counterparts; attorneys in the North, South and Metro regions were somewhat less likely than their counterparts from the West and East regions to report feeling bound by the Standard.
- Corporate lawyers and attorneys in large private firms were more likely than others to report feeling personally bound by the Standard, while attorneys in government were much less likely than others.
- Attorneys in private practice were more likely than corporate attorneys to believe they had met the Standard in 2007 while government lawyers were less likely to believe they had met the Standard than were corporate attorneys.
- Compared to service hours and donations reported, claiming to have met the Standard when they actually had not (Error 1) was similarly common across virtually all demographic and regional groups of attorneys except for practice setting.
 - Attorneys in private practice – especially those in large firms – were less likely than corporate or government lawyers to claim to have met the Standard when they had not.
 - Attorneys in private practice – especially those in large firms – were more likely than other attorneys to believe they had not met the Standard when they actually had (Error 2), but the differences were relatively small.

**TABLE 12:
Percentage of Attorneys Aware of, Feel Bound by, Believe Met, Erred Regarding Met
Voluntary Standard and Mistakenly Counted Case as *Pro Bono*, by Demographic and
Practice Setting Characteristics**

Attorney Characteristics	% Aware of Standard	% Feel Bound by Standard	% Believe Met Standard	% Making Error 1	% Making Error 2	Mistakenly Counted Wrong Circumstance as <i>Pro Bono</i>	
						% Very Likely Wrong	% Probably Wrong
2007 SBM (all)	70	56	68	11	4	50	12
Gender							
Male	70	53	69	10	5	51	12
Female	71	61	68	11	3	48	11
Practice Setting							
Private	71	58	76	8	5	58	12
<i>Solo</i>	66	53	75	11	5	66	12
<i>Small (2-10)</i>	67	55	75	9	4	64	13
<i>Medium (11-20)</i>	65	51	69	10	9	40	12
<i>Large (21 or more)</i>	83	71	80	4	4	35	12
Corporate	70	62	65	11	4	26	8
Government	67	43	42	13	2	30	9
Academia	71	59	78	14	2	34	10
Legal Services	76	58	70	13	5	52	12
Non-Law	55	29	46	11	4	28	12
Judiciary	65	50	53	23	1	58	19
Race							
White	71	56	68	10	4	50	12
African American	64	49	68	12	0	51	11
Other	66	54	71	15	6	55	11
Age							
21-30	60	71	60	7	2	40	9
31-40	70	63	63	10	4	44	8
41-50	71	59	69	10	5	50	12
51-60	71	53	71	11	3	50	12
61-70	69	51	70	12	4	58	14
71 or older	60	40	63	11	17	58	7
Region of State							
Region N	68	52	64	8	5	57	7
Region W	77	65	72	10	4	52	17
Region E	74	61	68	9	4	51	10
Region S	73	52	67	10	4	49	13
Region M	66	55	68	11	4	49	10

* Error 1: Believed had met Standard when reported service hours and/or amount donated indicated had not met Standard

** Error 2: Believed had not met Standard when reported service hours and/or amount donated indicated had met Standard.

- Attorneys older than 70 were more likely than others to think they had not met the Standard when they actually had, while attorneys 30 or younger were less likely than others to make either Error 1 or Error 2.
- Older attorneys were more likely than their younger counterparts to report having counted at least one case as *pro bono* that was very likely a wrong decision based on the circumstances.⁵
- Attorneys in corporate, government and academic settings were less likely than those in private practice to report having counted at least one case as *pro bono* that was very likely a wrong decision and other cases that were probably wrong decisions based on the circumstances.

Overall, most attorneys seemed to understand what *pro bono* is generally although half reported at some point in their career as having considered a particular case as *pro bono* that they should not have. Most also reported being aware of, feeling bound by, and correctly reported whether they have or have not met the Voluntary Standard. What errors they made in assessing whether they met the Standard or not did not appear to be substantially greater among some segments than others of magnitude that would likely change the overall participation in *pro bono* activities if corrected.

Nevertheless, these results suggest that *pro bono* might be increased by making more attorneys aware of the Standard and increasingly their sense of obligation to abide by it. Furthermore, providing information and examples to clarify what may be considered as *pro bono* and what may not might improve the accuracy of the reporting of *pro bono* efforts.

Do Lawyers Utilize Organized Pro Bono Programs to Do Pro Bono Service?

In the previous section of the report, eleven items were listed from the questionnaire. The items represented a variety of circumstances in which an attorney might have acquired a case and decided to consider it *pro bono*. Three of these circumstances involved referrals from formal groups charged with arranging *pro bono* services for the needy. These include referrals from legal services, a local bar association, or the attorney's office's *pro bono* committee. Table 11 had indicated that no one of these had been the source of *pro bono* cases for even a simple majority of the respondents – 33% had indicated having had referrals from legal services they considered *pro bono*, 17% had referrals from a local bar association they considered *pro bono*, and 12% had referrals from their office *pro bono* committee. Far more reported having had cases they considered *pro bono* that had been referrals from less formal channels, e.g., referrals from friends or acquaintances (63%), from a church or community organization (46%), or from some other referral source (36%).

The role more formal sources of referrals play in arranging *pro bono* services for the needy may be more clearly evaluated by determining what percentage of attorneys reported considering a

⁵ Since the question was not limited to 2007 cases, the differences across age groups could merely reflect the fact that older attorneys have had longer careers and, therefore, more opportunities in which to make such an error. Alternatively, the differences across age groups could reflect a change in legal culture over the years as to what may be validly considered *pro bono* and what not. In that sense, the differences may reflect a cohort effect rather than a need for a new educational campaign to correct current misconceptions.

case *pro bono* that had been referred to them by at least one of the formal legal aid sources. Among all the responding attorneys who had provided *pro bono* services in 2007 or before, 41% reported that at least one of those cases had been referred to them from at least one of the three formal sources. By contrast, 78% reported that at least one of those cases had been referred to them from at least one of the informal sources, and 48% reported at least one of those cases grew out of their own interviews with prospective clients.

Table 13 shows the percentages of attorneys across demographic and practice settings who reported *pro bono* cases through each of these three sources: formal legal organization referrals, other informal referrals, direct client contacts. Since each attorney could have had numerous different cases over the years from very different sources, the percentages do not sum to 100% within each row.

The table indicates that:

- Attorneys in the North and Metro regions were less likely than others to have received cases from the formal referral sources they decided to treat as *pro bono*; attorneys from the North region were more likely than others to have decided to treat a case as *pro bono* after interviewing the client and deciding to take the case, while those from the Metro region were less likely to do so than others.
- Males were somewhat more likely than females to have decided to consider cases as *pro bono* that they had received from informal referral sources or after interviewing the client and agreeing to take the case.
- Attorneys in private practice were much more likely than corporate or government attorneys to have decided to consider a case as *pro bono* after interviewing the client and agreeing to take the case; they were somewhat more likely than corporate and government lawyers to have decided to consider a case as *pro bono* they were referred from an informal source; and they were somewhat more likely than government attorneys to have decided to consider a case as *pro bono* they had been referred to by one of the formal sources.
- Large firms were more likely than smaller firms to report having had a case they considered *pro bono* referred to them by a formal source, less likely than smaller firms to report having had a case they considered *pro bono* referred to them by an informal source, and much less likely to report having had a case they considered *pro bono* based on their interview with the client.

To some extent, these differences across practice settings largely reflect the differences in the clientele with whom attorneys in these different setting interact, and the control they have over the decisions that are made as to how much to bill and whether or not to bill time.

TABLE 13: Percentage of Attorneys Who Reported <i>Pro Bono</i> Cases From Selected Sources, by Demographic and Practice Setting Characteristics			
Attorney Characteristics	% of Attorneys Who Had <i>Pro Bono</i> Cases From . . .		
	Formal Legal Organization Referral	Informal, Non- Legal Organization Referral	Personal Direct Contact With Clients
2007 SBM (all)	41	78	48
Gender			
Male	40	80	50
Female	43	74	44
Practice Setting			
Private	43	80	55
<i>Solo</i>	37	81	63
<i>Small (2-10)</i>	43	85	62
<i>Medium (11-20)</i>	38	80	45
<i>Large (21 or more)</i>	61	69	28
Corporate	41	72	26
Government	34	73	29
Academia	30	83	47
Legal Services	40	77	43
Non-Law	21	75	30
Judiciary	50	78	53
Race			
White	42	78	48
African American	33	81	45
Other	41	79	52
Age			
21-30	37	74	43
31-40	44	75	46
41-50	41	77	47
51-60	40	79	48
61-70	44	81	52
71 or older	35	82	45
Region of State			
Region N	31	79	62
Region W	54	80	49
Region E	46	73	52
Region S	44	79	50
Region M	37	78	44

Of those who have done *pro bono* in the past but not in 2007, 50% reported having decided to consider a case as *pro bono* they had received from a formal legal referral source whereas only 38% of those who did *pro bono* in 2007 reported having decided to consider a case as *pro bono* they had received from this source. On the other hand, 82% of those who did *pro bono* in 2007 reported having had a case they decided to consider *pro bono* that had originated from an informal referral source compared to 70% among those who did not do *pro bono* in 2007 but had previously. This suggests that formal sources made fewer referrals in 2007 than they had in the past or that they made the same or more referrals but to fewer attorneys.

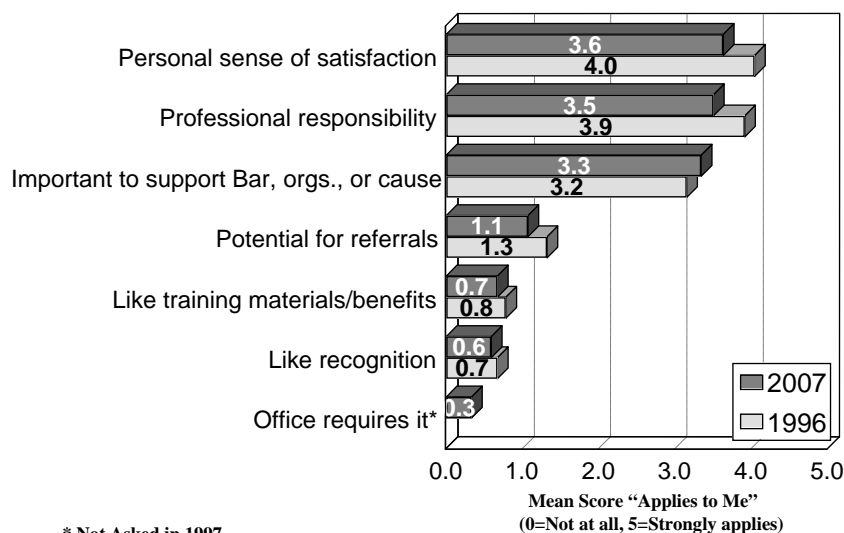
The data indicate that only about four out of ten attorneys utilize formal legal referral sources for engaging in *pro bono* service. Almost eight out of ten utilize more informal non-legal sources and almost half make decision on their own based on direct contacts and interviews with clients.

What Are the Main Reasons Lawyers Do or Do Not Do Pro Bono Service?

The report has already summarized the responses to a set of questions asked to respondents regarding how they felt about *pro bono* or what they believe they get out of it. The results for these were presented in Tables 9 and 10. Figure 7 displays the average score of respondents regarding the extent to which they thought each of seven reasons for doing *pro bono* applied them personally. The figure shows the results from both the 2008 survey and the 1997 survey.

Figure 6.

Attorneys' Reasons for Doing Pro Bono Among Those Who Have Done So: 2007 vs. 1996



Clearly, among those who have done *pro bono*, the sense of personal satisfaction, professional responsibility and importance to support SBM, local bar associations, legal services organizations or a particular cause were widely and strongly held views of these attorneys. Figure 6 indicates that the relative importance of these reasons was very similar to the findings of the 1997 survey also.

The importance of these views is somewhat understated as presented in the figure. What it fails to show are the differences in the views of those who did *pro bono* in 2007 compared to those who did not but who had done *pro bono* at some other point in their career.

As was noted earlier, the average belief about *pro bono* composite score constructed to represent respondents' answers to these seven items was 3.86. This included both those who had done *pro bono* in 2007 and those who had done *pro bono* at some point in their career prior to 2007 but not in 2007. Among those who did *pro bono* in 2007, the average score was 3.96 while it was 3.63 among those who had not done *pro bono* in 2007 but had previously. Higher scores on the 0 to 5 scale represented more positive views of *pro bono*. Among the 2007 *pro bono* participants, 73% had a composite score of 3.5 or greater, while only 53% of those who did not do *pro bono* in 2007 but had previously had scores that great.

This, also, somewhat understates the differences in views between those who did *pro bono* and those who did not (at least in 2007) because these two groups of attorney respondents did not differ in their responses to two of the seven questions (i.e., “I like the training materials. . .” and “I like the recognition. . .” Both groups of respondents were about equally likely to say these statements did not apply to them.

In particular, those who did *pro bono* in 2007 were more likely than those who did not to indicate that three of the statements apply to them strongly (i.e., to give the two answers that indicate the statements “*Pro bono* service gives me a sense of personal satisfaction,” “*Pro bono* service is part of my professional responsibility,” and “I feel *pro bono* service is important to support . . .”). More than two-thirds (69%) of the attorneys who did *pro bono* in 2007 gave the ‘applies to me’ or ‘strongly applies to me’ responses to the ‘personal satisfaction’ statement compared to only 44% of those that did not do *pro bono* in 2007. Nearly seven out of ten (68%) of the attorneys who did *pro bono* in 2007 gave the ‘applies to me’ or ‘strongly applies to me’ response to the ‘professional responsibility’ statement compared to only 38% of those that did not do *pro bono* in 2007. And, nearly six out of ten (58%) of the attorneys who did *pro bono* in 2007 gave the ‘applies to me’ or ‘strongly applies to me’ response to the ‘important to support’ statement compared to only 46% of those that did not do *pro bono* in 2007. That is, those who did *pro bono* in 2007 more strongly felt a professional responsibility to do *pro bono*, it is an important way to support the legal profession and their personal causes, and derive personal satisfaction from doing so than even others who have done *pro bono* in the past but not in 2007.

Regardless whether or not they had ever done *pro bono* service, respondents were presented a series of descriptions of conditions, situations, or circumstances. They were asked to indicate whether each of these would likely encourage them to increase the amount of time they spend on *pro bono* service a lot, a little, or would not encourage them to increase their service at all.

Table 14 shows the thirteen items and the percentage of respondents who gave each of the responses to each item. The table indicates that the items representing circumstances which the largest percentages of respondents thought would encourage them a lot were items 1 (57%) and 11 (41%), while the items that represented circumstances which the largest percentages of respondents thought would not encourage them at all were items 6 (58%) and 13 (52%).

For the most part, responses to the thirteen items were all positively correlated with each other but some items correlated more strongly with some of the other items than with others. Factor analysis indicated that there were three clusters of items in which the items in the cluster were highly intercorrelated with each other but more weakly correlated with the items not in the cluster. The items in each separate cluster were used to make a single variable representing the combined responses to all the items in the cluster. The first cluster consisted of items 3, 4, 5, 6, 11, 12, and 13. These items generally referred to benefits accrued or burdens eased for the respondent. The composite score of responses to this set of items will be referred to as the Increase Benefits Scale. The second cluster of items consisted of items 7, 8, 9 and 10. These items generally referred someone requesting *pro bono* assistance from the respondent.

**Table 14:
Percentage Distribution of Responses Regarding How Encourage Various Factors
Would Be At Increasing Pro Bono Service Hours**

"How much would the following factors encourage you to increase the amount of time you spend on <i>pro bono</i> service?"		Would Encourage . . .		
		A Lot %	A Little %	Not At All %
1.	The <i>pro bono</i> service was not taking on a client or case, but rather a discrete legal task with a limited time commitment.	57	31	12
2.	A wider range of types of <i>pro bono</i> opportunities was available for me to choose from.	37	37	26
3.	An outside source offers assistance with out of pocket costs associated with my <i>pro bono</i> .	38	38	24
4.	Free or discounted training was offered as a reward for performing <i>pro bono</i> service.	33	34	34
5.	Free or discounted material or forms were offered for <i>pro bono</i> service.	36	35	30
6.	I received credit for my <i>pro bono</i> service in my billable hours.	25	18	58
7.	A judge asked me to take on <i>pro bono</i> service.	36	37	27
8.	Another lawyer asked me to take on <i>pro bono</i> service.	16	50	35
9.	A family member or friend asked me to take on <i>pro bono</i> service.	37	44	19
10.	A business client asked me to take on <i>pro bono</i> service.	28	44	28
11.	Mentors and co-counsel were available to assist me in my <i>pro bono</i> service.	41	36	23
12.	Potential <i>pro bono</i> clients were pre-screened in a consistent way.	34	39	28
13.	I knew the judge would give favorable docket placement to <i>pro bono</i> cases.	21	28	52

The composite score of responses to this set of items will be referred to as the Ask for Help Scale. The third cluster consisted of only two items -- items 1 and 2. These two focused on characteristics of the commitment, either more clarity and limitation on the time being committed or a broadening of the variety of cases from which to choose to make a commitment. For each item in the cluster, the "would encourage a lot" response was scored 2, the "would encourage a little" response was scored 1, and the "would not encourage at all" response was scored 0. The respondent's average score to all items in the cluster were then calculated. The composite score of responses to these items will be referred to as the Define Task Scale.⁶ As constructed, scale scores could vary from 0 to 2 with a score of 0 being the result of the respondent giving the "not at all encourage" response to all items in the cluster and a score of 2 being the result of the respondent giving the "encourage a lot" response to all items in the cluster. All other combinations of responses would produce intermediate scores.

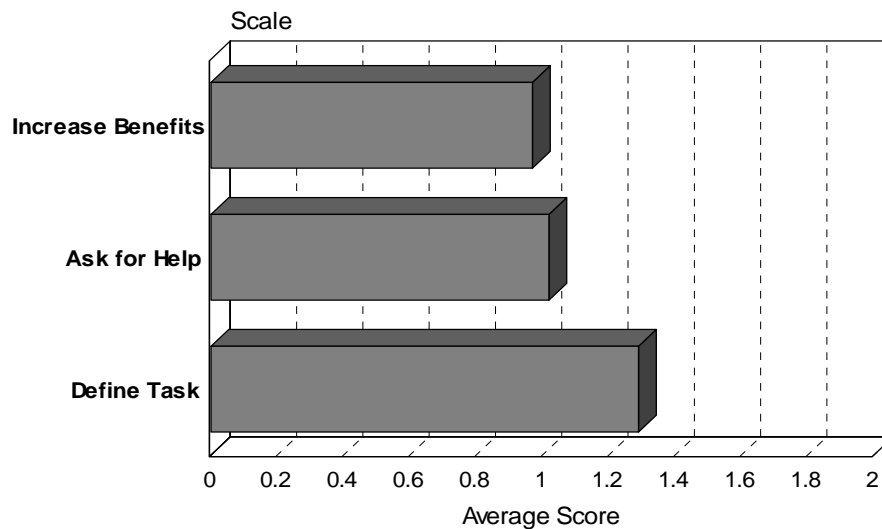
The average score on the Increase Benefits Scale was 0.97 – an average score that means respondents collectively thought that the conditions indicated in those seven items would

⁶ The reliability measure (Cronbach's alpha) for the Increase Benefits Scale was 0.83, for the Ask for Help Scale was 0.78, and for the Define Task Scale was 0.60.

encourage them a little to increase the amount of *pro bono* they do. The average score on the Ask for Help Scale was 1.02, slightly higher than that on the Increase Benefits Scale, and indicated that respondents collectively thought the conditions in this set of four items would be more encouraging (see Figure 8). The average score on the Define Task Scale was 1.29, an even higher score, indicating respondents thought these two conditions would be even more encouraging still.

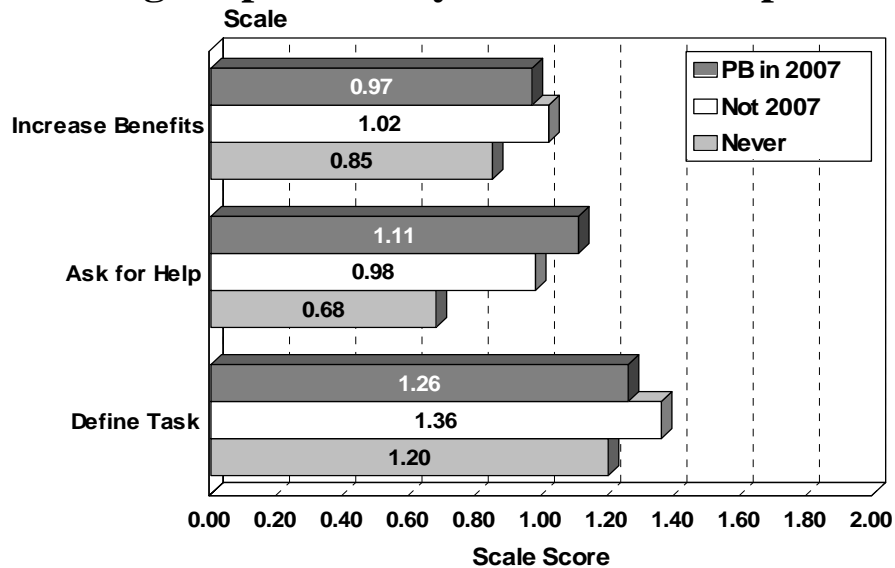
Figure 8.

Average Score Among All Respondents on Three Scales of Factors that Would Encourage More *Pro Bono*



Among those who did *pro bono* in 2007 (see Figure 9), the average score on the Increase Benefits Scale was 0.97, among those who did not do *pro bono* in 2007 but had previously, the average score was 1.02, and among those who had never done *pro bono*, the average score was 0.85. The differences were statistically significant. That means that finding ways to increase the benefits to the attorney of doing *pro bono* would provide a marginally greater encouragement to do *pro bono* for those who have done *pro bono* in the past but did not do so in 2007, while having appreciably less impact on encouraging those who have never done *pro bono* at all. This suggests that those who did *pro bono* in the past did not do so in 2007 at least in part because they found the activity too burdensome or too inconvenient to be worth what they felt they got out of it.

Figure 9.
Comparison of Average Encouragement Scale Scores
Among Respondents by *Pro Bono* Participation



Some of the focus group participants made comments that indicate some of the discouraging aspects of working with some *pro bono* clients. Some of the comments were as follows:

- *"I hate to say this, it sounds crass but I think sometimes people who are not paying for legal services have a higher expectation ..."*
- *There was also the concern that clients receive pro bono or reduced fee services will think they're not getting the same treatment. The clients rationalize, "[They're] paying me \$100, the advice is only about a third good."*
- *"I think that clients just tend to have no appreciation for services that you're providing."*
- *"...because they're not paying, they don't think anything about calling up three times a day ... and keeping you on the phone for an hour."*
- *Clients also take advantage by calling their attorneys about other matters: "all of a sudden you are their attorney, and they're calling you about their grandmother's will, and about Uncle Joe's border dispute."*
- *"When the client's paying you 300, 400 bucks an hour, they don't keep you on the phone for a half an hour repeating the same old whine. They're pretty conscious of your time. There aren't missed court dates and reschedulings for those kinds of reasons."*
- *"The fact that 99.999% of cases end up with some kind of compromise between that really has not entered their mind. So a lot of times they aren't even thinking about, 'Okay, what's the end game, what's the backup plan, what's my base line expectation for this thing?'"*
- *"It's not uncommon that you represent somebody in a particular matter and then they believe that you are their pro bono lawyer forever and for all things. They're entitled to come back and get free service, and they're at best perplexed when you try to explain again the concept of, 'No, we represented you in this one matter, that doesn't mean that we're going to represent you in anything else and, by the way, not for free.'*
- *After hearing a story how one pro bono client filed a grievance against the attorney, one respondent stated, "There's an old adage that says, 'No good deed goes unpunished.' And you get people that ... just don't always appreciate the value of what you're doing, but you really extend yourself in doing this thing, and then they spit on you."*
- *"When I was doing stuff for the prisoners, they became very dependent. They wanted to talk to you all the time. They wondered what was going on with their case. They had no concept of taking up your time. And I've found that with certain pro bono people who came in and I felt sorry for—that was the one thing I*

learned after about the first five years of my practice—forget ‘feeling sorry for,’ ... Every time I did something for somebody that I felt sorry for, I got myself in deep, they had no appreciation for what was going on.”

- *“I used to bill them every month, just to show them what it costs. And they never understood, ‘Why is it costing so much?’ Well, because a court reporter costs \$300 just to sit there and take it down, even if we don’t even order it. There’s just no concept in the public, the cost of litigation.”*
- *“The worst thing about pro bono is when you’ve done something probably as good as you can do it, and it didn’t come out ... because the case isn’t capable of coming out real well. And you get a feeling from the client—or the non-client, the pro bono client—that you’ve been a jerk, you haven’t acted right for him or done something you should have done. That’s the worst part of it. You work like crazy for nothing, and get not only that, but get a bad feeling from them.”*
- *“Beyond the legal screening ... sometimes there’s just not a real good vetting with the individual and whether they’re going to be a willing participant in their own litigation. I mean, I at times have handed out pro bono cases only to have the lawyer say, ‘I sent two letters, called twice, let’s just close this file, there’s no response.’”*
- *“That seems to be a problem that we’re having more and more ... we need them to sign a form. We send it to them, and it doesn’t come back for a month, so we re-send it to them and this is when they’re saying, ‘Yes, I’m watching for it, I’m going to send it to you.’ You give them a pre-paid envelope, they don’t respond. We don’t take that many cases, we probably only take nine per clinic, but I wouldn’t be surprised if half of them have just been closed for lack of responsiveness by clients.” The respondent went on to point out that bad experiences like this make lawyers reluctant to do more pro bono: “You have somebody who says I’ll take something, they get nothing out of it, it’s not a positive experience, and then you want to try to give them another case and that gets to be a problem.”*
- *“As far as general client screening, some people seeking legal assistance are simply not in a mental place or a financial place to accept the next level, because they’re just worrying about survival skills. ‘Do I have a house? Do I have food? Can I pay the rent? Is my kid healthy?’ These are the issues they’re focused on. They are not focused on, ‘Am I going to respond to XXXX, because he otherwise would be billing \$500 an hour to his important business client?’”*
- *“Some of these people they don’t have phones or their phone are constantly turned on and turned off. They move a lot, they’re transient.”*
- *Dealing with nonresponsive clients causes lawyers to lose interest in donating their time: “Our lawyers are sick to death of it, they’re sad, they don’t want to do it, and we ask them to take another case, it’s like, ‘Forget you!’”*

For attorneys with experiences like these, increasing the benefits would seem to offset some of the burden or inconvenience to make it seem more palatable. For those who had never done *pro bono*, increasing the benefits (or reducing the costs) appeared to some to be an encouragement but not nearly as strong an inducement as for the other respondents.

It seems unlikely that attorneys routinely go out of their way to look for opportunities to provide legal assistance for free, but might be more than willing to do so should they be asked. Figure 8 indicates that the average score on the Ask of Help Scale was much lower among those who had never done *pro bono* than the other two groups and was significantly higher among those who had done *pro bono* in 2007 than among those who have done *pro bono* but did not do it in 2007. That is, for the attorney respondents who had never done *pro bono*, being asked by others to do *pro bono* would provide little encouragement to them to actually do it, so a strategy to increase *pro bono* activity by appealing to attorneys for help would likely have little impact on this group of attorneys. On the other hand, being asked for help appears to be a much stronger encouragement for other attorneys, especially those who actually did *pro bono* in 2007. This suggests that those who did not do *pro bono* in 2007 did not do so because they were not asked but might have had they been asked for help. Building a mechanism through which to identify cases for which *pro bono* services would be necessary and then making direct appeals to attorneys to take on the case might be an effective strategy to increase both the numbers of

attorneys doing pro bono. Such a strategy would seem likely to be effective with these groups. Unfortunately, the questionnaire did not ask respondents directly whether or not they had been asked to provide *pro bono* services in 2007, only whether or not they had provided services.

For all three groups of attorney respondents, average scores were highest (i.e., the conditions identified by the items in the scale were most encouraging) on the Define Tasks Scale, suggesting that a strategy built on this approach would be the most consequential for increasing *pro bono* participation overall. The average scores on the scale were still statistically significantly different among the groups but they were all well above the theoretical midpoint of 1.0. Especially among the two attorney groups who had not participated in pro bono during 2007, the respondents indicated that these conditions (i.e., a clear, limited time legal task and allowing the attorney to choose tasks from a list of needs) would encourage them substantially to increase their pro bono participation.

Table 15 shows the average score on each of the three scales among the various demographic and practice setting groups of attorneys. The table indicates that:

- Female attorneys indicated they would be more encouraged than males to participate in *pro bono* by increasing the benefits of doing so and by more narrowly defining the task and allowing choice, while males indicated they would be more encouraged than females by direct requests for assistance. Both males and females indicated they would be most encouraged by being able to choose more narrowly defined tasks, and least encouraged by increased benefits for participating.
- Private practice attorneys indicated they would be more encouraged than did either corporate or government attorneys by increased benefits and by direct requests for legal assistance, while corporate lawyers (especially) and government attorneys indicated they would be more encouraged than did private practice attorneys by more narrowly defining the task and allowing choice.
 - Among the private practice attorneys, the effect of direct appeals for assistance and for defining the task on encouragement generally increased with the size of the firm.
- The effect on encouraging participation by increasing the benefits was somewhat greater among African Americans and attorneys of other racial or ethnic backgrounds than among white, non-Hispanic attorneys, but more narrowly defining the task and allowing choice was still much more encouraging for all three groups.
- The effect on encouragement of both increasing the benefits of *pro bono* participation and of defining the task and allowing choice decreased as respondents' ages increased. That is, among more senior attorneys whose incomes and latitude within their practices are likely greater, the desirability of greater benefits and the ability to limit the commitment was less encouraging of participation in *pro bono* activities.

TABLE 15:			
Average Encouragement Scale Scores Among Respondents by Demographic and Practice Setting Characteristics			
Attorney Characteristics	Average Scale Score		
	(0=No Encouragement, 2=A Lot of Encouragement)		
	Increase Benefits	Ask for Help	Define Task
2007 SBM (all)	0.97	1.02	1.28
Gender			
Male	0.88	1.07	1.22
Female	1.11	0.95	1.38
Practice Setting			
Private	0.96	1.10	1.22
<i>Solo</i>	<i>0.96</i>	<i>1.07</i>	<i>1.13</i>
<i>Small (2-10)</i>	<i>0.96</i>	<i>1.10</i>	<i>1.23</i>
<i>Medium (11-20)</i>	<i>0.94</i>	<i>1.18</i>	<i>1.29</i>
<i>Large (21 or more)</i>	<i>0.98</i>	<i>1.14</i>	<i>1.36</i>
Corporate	0.90	0.90	1.42
Government	0.89	0.81	1.32
Academia	0.97	0.92	1.26
Legal Services	1.09	1.04	1.33
Non-Law	1.04	0.96	1.43
Judiciary	1.12	0.94	1.35
Race			
White	0.95	1.03	1.27
African American	1.16	1.01	1.36
Other	1.10	1.01	1.31
Age			
21-30	1.34	1.10	1.54
31-40	1.17	1.04	1.39
41-50	1.03	1.00	1.32
51-60	0.85	1.01	1.24
61-70	0.78	1.04	1.13
71 or older	0.61	1.14	0.83
Region of State			
Region N	0.90	1.07	1.21
Region W	0.98	1.05	1.25
Region E	0.96	1.00	1.18
Region S	0.96	0.97	1.30
Region M	0.98	1.04	1.29

- In all regions, defining the task was judged to be more encouraging of *pro bono* participation than either increasing benefits or direct requests for assistance. There were no significant differences across the regions regarding how encouraging it would be to increase benefits or receive direct requests for help, but attorneys in the East and North regions rated defining the task more clearly as somewhat less encouraging than did attorneys in the other three regions.

This set of items explored what factors might encourage attorneys to participate more in *pro bono* service. An overall strategy for increasing *pro bono* participation should develop means or mechanisms to encourage participation and it should try to remove the disincentives to participation, i.e., to address those conditions that discourage participation. The questionnaire included another set of items that focused on conditions or factors that might discourage respondents from participating in *pro bono* service.

There were eleven items in this set of questions. Each item was a statement describing a reason why the respondent could not participate in *pro bono* activity. Respondents were asked to indicate how strongly they agreed or disagreed with each item. Table 16 below shows each of

How Strongly Agree or Disagree with Statements Lawyers Give Why They May Not Engage in or Limit <i>Pro Bono</i> Service	Responses					Average Response
	% Strongly Disagree (=0)	% Disagree (=1)	% Neither Agree Nor Disagree (=2)	Agree (=3)	Strongly Agree (=4)	
1 I don't have time for <i>pro bono</i> service	10	23	27	27	14	2.12
4 I have no poverty law expertise	14	20	25	23	18	2.10
8 The area of law or organization in which I practice already serves the public good	14	18	34	17	17	2.05
3 Financially, I cannot afford to do <i>pro bono</i> service	13	28	27	21	12	1.92
7 I don't get billable hour credit for doing <i>pro bono</i> service	19	14	36	15	16	1.97
5 My office or organization discourages or does not engage in <i>pro bono</i> service	27	22	30	10	11	1.54
6 My office or organization limits the amount of <i>pro bono</i> service I do	27	24	33	9	7	1.47
2 I don't think I have an obligation to do <i>pro bono</i> service	32	34	20	8	6	1.21
10 Since I am not currently practicing law, I should not do <i>pro bono</i>	33	18	36	6	7	1.35
9 I am concerned that doing <i>pro bono</i> service will have a negative impact on my career advancement	40	28	26	4	3	1.01
11 I think lawyers should be paid for all their services. There should be no <i>pro bono</i> .	56	24	14	3	3	0.73

the items, the percentage of respondents who gave each of the possible answers for each item, and the average response for each item. The eleven items have been listed in descending order of the percentage of respondents who agreed or strongly agreed to the items. The table indicates that, in 2008, 41% of the respondents agreed that the reason they do not do *pro bono* or limit how much they do is because they do not have time for *pro bono* and that they lack expertise in poverty law. By contrast, in 1997, only 32% of respondents agreed or strongly agreed that did not have time for *pro bono* and only 5% in 1997 claimed they lacked expertise in poverty law.

More than a third of the current respondents (34%) agreed that their office or organization discourages *pro bono* (compared to only 5% in 1997). A third (33%) agreed that they cannot afford to do *pro bono* (compared to 17% in 1997) and 31% agreed that they do not get billable hour credit for doing *pro bono* service (the same as the 31% in 1997).

Many attorneys work in practice settings in which their work obligations to their employers and/or the revenues generated to pay their salaries and office expenses involve producing billable hours. In these situations then time and money are tightly linked. So saying one cannot afford to do *pro bono* and saying one does not have time for *pro bono* are two different ways of saying much the same thing. In fact, responses to these two statements were positively correlated.

By contrast, only 6% agreed that there should be no *pro bono*, 7% agreed they were concerned about *pro bono* activity adversely impacting their career advancement, 13% agreed they should not do *pro bono* since they were not practicing law currently (compared to 22% in 1997), and 14% agreed they do not think they have an obligation to do *pro bono*.

Items 5 and 6 indicate the policies of the office in which the respondent works put limits on the respondent's ability to provide *pro bono* services. More than a fifth of respondents (21%) agreed with item 5 and 16% agreed with item 6.

Again, three scales were constructed representing composite responses to sets of similar items. The first scale, comprised of responses to items 1 and 3, focused on the shortage of time or money and has been dubbed the Can't Afford Scale. The second was comprised of responses to items 2, 4, 8, 10 and 11. All of these items indicate a view that it is not the responsibility of the respondent to do *pro bono* for one reason or another, e.g., not currently practicing law, no one should do *pro bono*, or the respondent lacks relevant expertise. This scale has been dubbed the No Responsibility Scale. The third scale constructed was based on the responses to items 5, 6, 7 and 8. Each of these attributes the reason for not doing *pro bono* to policies of the respondent's office or organization. This scale has been dubbed the Office Limitations Scale. Each scale was⁷ constructed so that scores could vary from 0 to 4 where a score of 0 would result if the respondent gave the strongly disagree response to every item in the cluster, a score of 4 if the respondent gave the strongly agree response to every item in the cluster, and intermediate scores would result with any other combination of agree or disagree responses to the items.

Table 17 shows the average score on each of these scales for those who did *pro bono* in 2007, those who have done *pro bono* but not in 2007 and for those who have never done *pro bono*. It also shows the average score on each among the various categories of attorney demographic characteristics and practice settings.

As the table indicates the average score for the Can't Afford Scale was greater than that for either of the other two scales, suggesting that this was the single biggest reason for not doing *pro bono*. The table also indicates that:

⁷ The reliability measure (Cronbach's alpha) for the Can't Afford Scale was 0.64; for the No Responsibility Scale, 0.60; and, for the Office Limitations Scale, 0.73.

TABLE 17:			
Average Discouragement Scale Scores Among Respondents, by <i>Pro Bono</i> Activity, Demographic and Practice Setting Characteristics			
Attorney Characteristics	Average Scale Score		
	(0=Strongly Disagree, 4=Strongly Agree)		
	Can't Afford	No Responsibility	Office Limitations
2007 SBM (all)	2.02	1.48	1.49
Prior <i>Pro Bono</i> Activity			
Did <i>Pro Bono</i> in 2007	1.84	1.28	1.28
Did <i>Pro Bono</i> , Not in 2007	2.27	1.73	1.77
Never Did <i>Pro Bono</i>	2.43	2.01	2.03
Gender			
Male	1.96	1.49	1.44
Female	2.13	1.47	1.58
Practice Setting			
Private	1.99	1.39	1.35
<i>Solo</i>	2.03	1.43	1.28
<i>Small (2-10)</i>	2.04	1.37	1.33
<i>Medium (11-20)</i>	2.10	1.49	1.68
<i>Large (21 or more)</i>	1.80	1.30	1.42
Corporate	2.15	1.58	1.69
Government	2.06	1.78	1.97
Academia	1.88	1.51	1.31
Legal Services	2.03	1.32	1.39
Non-Law	2.31	1.92	1.80
Judiciary	1.83	1.68	1.71
Race			
White	2.00	1.48	1.48
African American	2.02	1.35	1.51
Other	2.34	1.54	1.62
Age			
21-30	2.32	1.57	1.67
31-40	2.27	1.51	1.64
41-50	2.11	1.50	1.50
51-60	1.93	1.48	1.46
61-70	1.75	1.43	1.37
71 or older	1.49	1.27	1.16
Region of State			
Region N	1.86	1.43	1.38
Region W	1.89	1.42	1.38
Region E	2.05	1.43	1.41
Region S	1.98	1.53	1.52
Region M	2.02	1.48	1.49

- Each scale was directly correlated with the respondents' past *pro bono* activities – i.e., those who had never done *pro bono* had the highest average scores on each of the three scales, while those who did *pro bono* in 2007 had the lowest average scores on each.

- Those who did not do *pro bono* were more likely to agree that they could not afford to do so, were more likely to agree it was not their responsibility to do so, and were more likely to agree that there were office policies where they work that constrain them from doing so.
- Female attorneys had higher average scores than males on the Can't Afford and Office Limitations scales.
- Corporate and government attorneys had higher average scores than private practice lawyers on all three of the scales, with corporate attorneys having the highest average score among the three groups on the Can't Afford Scale and government lawyers having the highest average score among the three groups on the No Responsibility and Office Limitations scales
- Among private practice attorneys, scores tended to increase with firm size up to medium size firms and then declined, indicating that attorneys in large law firms may have more support (financial and administrative) for engaging in *pro bono* service than is available in smaller firms.
- White, non-Hispanic attorneys and African American attorneys had lower average scores on the Can't Afford Scale than did attorneys of Other racial or ethnic groups.
- Average scores on each of the three scales tended to decline with increasing age of the respondents.
- There were significant differences across the five regions on the Can't Afford and Office Limitations Scales with respondents from the North and West regions of the state having lower average scores than others on the Can't Afford Scale and respondents from the South and Metro regions having higher average scores than others on the Office Limitations scales.

Based on multivariate analyses that separate out the net influences of the various demographic and practice setting variables, along with the three encouragement scales and the three discouragement scales, the strongest factor that influenced whether or not respondents did *pro bono* in 2007 was the practice setting. Net of other influences, government (and judiciary) attorneys were much less likely than private practice attorneys to do *pro bono* in 2007, as were corporate attorneys. Controlling for the influences of other variables, respondents' scores on the Can't Afford, No Responsibility, Office Limitations scales and scores on the Ask for Help and Define Task scales were significant predictors of participation in *pro bono*. Controlling for the influences of these variables, the sex, the race/ethnicity and the age of the respondent were not significant predictors.

What features of the different practice settings encourage or discourage *pro bono* activities of attorneys? The focus groups shed some light on this issue, particularly regarding the disparities in *pro bono* service between attorneys in corporate and government settings and those in private practice. The government and corporate groups had some unique situations because of potential conflicts of interest. Some of the participants said:

- A government employee stated, "The State prohibits it [*pro bono*]."
- "It's my understanding that we cannot engage in any practice of law outside of what we do for work."
- "Anything that conflicts with our government work, and working for the county, we have so many departments that provide"

- *“In the city of Detroit, you would have to get permission for any outside work, and that applied equally to pro bono or for pay. I never tried to get permission for ‘for pay’ work, but for pro bono it was never denied. Obviously I wouldn’t ask if there were a conflict of interest.”*
- *“I try to do what I can get away with. I’m on the board of a nonprofit organization, and occasionally give advice on unemployment or labor issues, but that’s about the most that I feel I can get away with.”*
- *“... working for the county you can’t take a case that ...”*
- *A corporate employee said, “XXXX always encourages community involvement. In terms of if I’m doing something that they term legal work, I’d have to get permission to make sure it didn’t involve that [conflict of interest].”*

In other cases, *pro bono* standards did not apply. As a consequence, some have taken the approach, therefore, to emphasize community service in place of actual legal assistance to the outside community, or to help individuals in need link up with other resources.

The SBM questionnaire included a set of questions about the culture of the firm in which the respondents practice. Only those who had ever done *pro bono* were asked to respond to the questions so this may not help illuminate the practice setting policies or constraints affecting those who have never participated but it may help regarding those who have.

Nearly four out of ten (37%) of the respondents indicated they were the only attorney in the practice, and 69% said they were their own supervisor (53% of those who were not the only attorney employed).

Among all these respondents who worked in an office with multiple attorneys and had a supervisor, 74% indicated that they feel comfortable expressing interest in *pro bono* service to other attorneys in their office or organization and 70% expressed feeling comfortable expressing interest in *pro bono* service to their supervisor. Only 57% of attorneys in government settings indicated they would feel comfortable expressing interest to other attorneys, compared to 66% of those in corporate settings and 78% of those in private practice. Similarly, 75% of those in private practice said they would feel comfortable expressing interest to their supervisor, compared to 65% of attorneys in corporate and 54% of those in government settings.

A number of participants in the focus groups suggested very practical, economy of scale aspects of firm size that makes *pro bono* more feasible in some private firms than others. Some of their comments were as follows:

- *“My level of involvement has been 100% in all of my pro bono cases and that’s directly related to the fact that I work for a very small firm. Typically pro bono work is done by lawyers in big firms who often assign a lot of that work to their associates and summer associates and assistants and I just don’t have that option so I have to do the work myself. Pro bono isn’t big in my firm’s priorities. My boss, he sort of appreciates that I do it and he appreciates my feeling for it but it isn’t – it’s not a priority for the firm.”*
- *“Being a two-man shop we kind of need to make as much money as we can, but our involvement is almost always issue driven. It’s an issue that we believe in and an issue that’s under represented. It’s not so often driven by the economics of the client. If somebody comes to me with another child custody case and they just can’t pay, I usually pass them on, but if it’s something unusual or something that we are trying to make a statement about ... because they’re edgier issues, we wind up usually putting more work on the pro bono cases than we do on your standard child custody cases.”*
- *“One of the things that led me to be a lawyer--or it’s certainly one of the things I find most rewarding about being a lawyer--is really being able to be of service to the community. It is difficult when you work in a small firm to perform much pro bono.”*
- *“Basically in our firm it just runs like any other case with no money. We work them just like every other case. We don’t have any additional staff to contribute to that. It’s basically just an agreement that the two*

of us make that we're not going to take money for this one or we're not going to take full fee for this one. Usually our pro bonos are reduced rate rather than truly free because it's bad enough for the bottom line when we take them at half rate or a third of our normal rate."

- *"... in a larger firm you have 20 people, maybe one, two doing pro bono work, there's the money coming in from the other 18 that goes to support that. But you get a small firm getting tied up ..., you're dead in the water, because if we don't work, we don't get paid. . . there's nobody back there, working, that's bringing in the money other than us."*
- *"The easiest thing . . . in the world of the large firms is for the firm to give the same kind of recognition to pro bono work that it does to fee generating work," to which another replied, "I agree," and another, "To a certain point."*
- *"The recognition by the firms is really critical, because if your partners are on your case all the time about all the time you're spending, even if you're going to get a good result, your life is going to be miserable."*
- *"I think there's a difference between the smaller firms and the bigger firms. The bigger firms, you have . . . an institutional overlay that drives it. . . . but when you're in a smaller group, and I guess my firm would be at the bigger end of the smaller group, it's a little harder to institutionalize things."*

Based on the interviews with the *pro bono* coordinators of 20 of the largest private firms in Michigan, the typical large firm has a written policy on *pro bono*. Typically, that policy specifically addresses the SBM Voluntary Standard, but there was no general consensus among those firms' policies as to whether the Standard should be met by service or a monetary contribution, or both. Nor, apparently, was there any definition as to what constitutes acceptable *pro bono* activity. Some encourage 'the work', some express no preference, and others state that the contribution is expected, but the work is up to the individual employee. About 20% of these firms require or mandate *pro bono* participation, and for all of them -- 4 out of 20 -- the requirement is longstanding. The coordinators at those firms could only speculate on the reasons that a requirement -- money or service -- had been implemented.

Respondents to the 2008 survey were asked what type of recognition or compensation, if any, their office or organization provides for doing *pro bono* service. Of all respondents who should have provided a response, only 11% indicated that their office or organization provides any such recognition. Of those who provided any response, 24% indicated their office or organization provides some type of recognition or compensation.

Some type of recognition for *pro bono* service was reported by 12% of respondents in private practice, 16% of corporate respondents and 4% of government attorney respondents. Among private practice attorneys, 12% of those in small firms, 16% of those in medium size firms, and 36% of those in large firms said their offices or organizations provide some type of recognition, award or compensation for *pro bono* service. Of those who reported their office provided some type of recognition, 25% indicated non-financial awards were given, 11% said additional compensation (financial or otherwise) was given, and 83% said other types of recognition was provided. Among those who reported some type of recognition for service was provided by their office or organization, 81% reported doing *pro bono* in 2007. Among those who said no recognition was provided or did not answer the question, 73% reported doing *pro bono* in 2007. Recognition appears to stimulate *pro bono* activity. More opportunities for public thanks and recognition might be important to increase the numbers of attorneys providing *pro bono* services.

Respondents were presented eight statements describing various possible ways in which law offices might regard *pro bono* service and respondents were asked to check each of those that

describe their own office practice. Table 18 shows the percentage of respondents in each type of practice setting who checked each statement.

		Practice Setting										
		% Yes										
Pro Bono Policy: My office. . .		Private	Sole	Small	Medium	Large	Corporate	Government	Academia	Legal Services	Non-law	Judiciary
1	Requires that <i>pro bono</i> service be done on my own time	3	1	4	11	5	11	12	1	11	1	3
2	Does not require that I do <i>pro bono</i> service on my own time but that seems to be the expectation	9	1	10	23	19	10	5	6	8	3	1
3	Does not permit or discourages <i>pro bono</i> service	5	1	9	14	5	8	25	5	10	3	6
4	Allows for a fixed amount or percentage of billable hours to be <i>pro bono</i> service	3	0	2	2	14	1	0	0	1	1	0
5	Allows for all <i>pro bono</i> service to be recorded as billable hours	5	0	6	7	14	1	2	1	4	1	0
6	Allows for <i>pro bono</i> service to be recorded but not in terms of billable hours	14	0	16	22	40	3	2	3	10	3	0
7	Allows for <i>pro bono</i> service, but I don't provide services in a billable hour setting	10	2	19	21	7	23	8	14	15	1	1
8	Don't know how my office records <i>pro bono</i> service	5	1	8	17	6	8	10	2	8	4	1

The table indicates that:

- Compared to private practice settings generally, attorneys in corporate and government settings were more likely to report that they must do *pro bono* on their own time.
- Among private practice attorneys, those in larger firms were more likely than those in smaller firms to indicate they are allowed to record their *pro bono* service as billable hours, to record it but not in terms of billable hours, or are allowed a fixed amount or percentage of billable hours to be *pro bono* service. That is, larger firms appear to provide more diverse ways in which attorneys can provide *pro bono* service.
- Government lawyers were three to five times as likely as those in private or corporate practice settings to report that their office does not permit them to do or at least discourages them from doing *pro bono* (25% vs. 5%, 8% respectively), while an additional 17% reported that, if they do it, they must do it on the own time (12%) or that it seems that that is the expectation (5%).
- Corporate lawyers were more likely than others to indicate they are allowed to do *pro bono* service but that they are not in a billable hours setting, i.e., salaried position.

Respondents were asked whether or not their *pro bono* service is taken into account in performance reviews. About one fifth of the respondents (21%) indicated they did not know if it is or not. Among those who did think they know, two-thirds (68%) indicated that their *pro bono* service was not taken into account in their performance reviews, 30% indicated that it was positively regarded in their reviews, and 1% said that it was negatively regarded in their reviews.

Table 19 shows how respondents across practice settings reported *pro bono* service was considered in their reviews. The table indicates that:

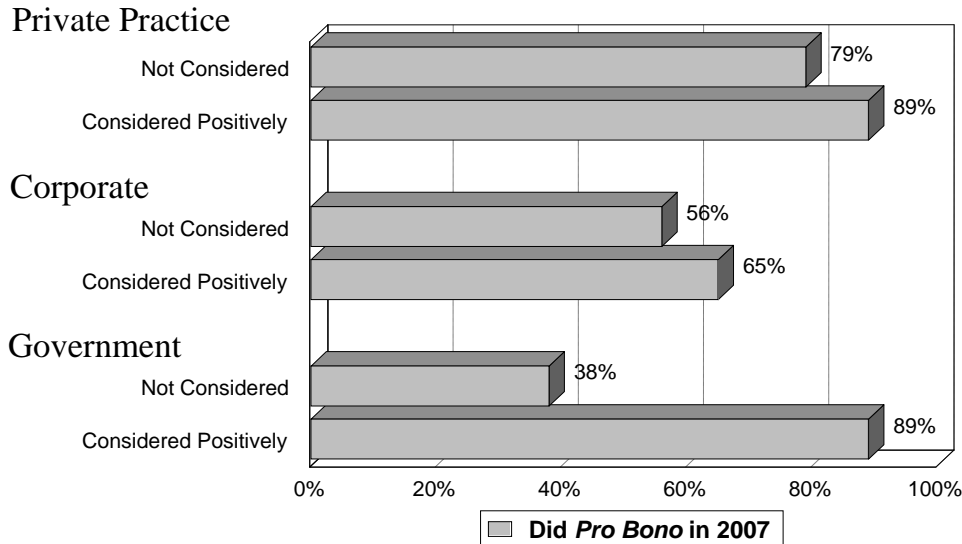
- *Pro bono* service was not taken into account -- or rarely so -- in government or judiciary settings.
- *Pro bono* service was generally more likely to be positively taken into account in private practice and academia than in corporate practice.
- Among private practice settings, *pro bono* service was more likely to be positively taken into account in larger firms than in smaller firms.

	<i>Pro Bono</i> Service in Performance Reviews		
	% Not Considered	% Considered Negatively	% Considered Positively
Overall	68	1	30
Practice Setting			
Private	61	2	38
<i>Solo</i>	76	0	24
<i>Small (2-10)</i>	70	1	30
<i>Medium (11-20)</i>	65	3	32
<i>Large (21 or more)</i>	43	2	55
Corporate	73	1	26
Government	93	1	6
Academia	35	4	61
Legal Services	76	0	25
Non-Law	67	0	33
Judiciary	100	0	0

Whether it is taken into account or not matters. Of those who said *pro bono* service was positively taken into account in performance reviews, 87% reported having done *pro bono* in 2007, whereas only 66% had done *pro bono* in 2007 of those who said such service was not considered during reviews. Figure 10 shows that this pattern occurred among private firms, corporate and government practice settings – in fact, more starkly so in government practice settings.

Figure 10.

**Percentage of Attorneys Who Did *Pro Bono* in 2007 by
Whether Service Is Considered During Performance
Reviews, by Practice Setting**



A number of these issues were discussed in the telephone interviews with the *pro bono* coordinators of the largest firms in Michigan. When asked about barriers to *pro bono* that are created by the firm's culture, more than half the respondents mentioned billable hours, i.e., the great demand to produce billable hours to generate revenue operates at cross-purposes to the professional responsibility to provide *pro bono* services. No other issue was mentioned more than once. When asked about remedies to those barriers, the coordinators most often mentioned assigning billable hour credit, followed by more and more emphatic communication. A few said there are no fixes -- nothing can be done.

There was a greater range of responses when asked about externally-generated challenges, as opposed to internal cultural barriers, but they can be summarized by the following paraphrased comments of respondents: "*Pro bono* cases can be hard"; there's a great demand, the skills of the typical attorney don't include those necessary to succeed at *pro bono*; the clients are difficult, and the cases are difficult. This is likely to be part of the experiential basis behind the greater Define Task Scale scores found in the 2008 web survey.

Listed below are selected examples of what the coordinators thought referral services, local bar associations or local referring programs could do to improve the situation.

- 'Better coordinate their *pro bono* opportunities, so that they are easier to learn about, and easier to plug someone in who may not be familiar with the org, we find the challenge to be to find a lawyer that fits the opportunity. Most things are criminal and not things that we do.'
- 'Could provide case referrals by email so they can be reviewed more quickly, also to provide information for conflict checks as quickly as possible'

- *'Pre qualify referrals'*
- *'Provide quality cases on a timely basis'*
- *'The more detailed an account of the case they can give us, the easier it is to do intake'*
- *'A little better intake on the referring to make sure the people are ready to have their issue addressed'*
- *'Better screening and get clients to understand the limits of the assignment'*
- *'I think helping us with support after the case has come through and then doing more routine and regular a trainings for various areas of poverty law'*
- *'If there is more training, a lot of time the pb matters involve things that our attorneys have never done, they have never done land lord/tenant, prisoner rights, etc. Making the trainings more known, they may be going on but I don't know about it'*

At least among the largest firms, there is reason to think change has been and may continue to occur. In the telephone interviews conducted with the *pro bono* coordinators of the largest law firms in the state, the majority of coordinators reported a stronger or growing commitment within the firm to performing or contributing to *pro bono* work. The primary reason cited was leadership by management, either by giving billable hours credit, or doing *pro bono* work themselves and setting an example. Only one coordinator said that *pro bono* had gotten weaker, and that was attributed to a lack of leadership and the feeling that *pro bono* service is not a part of the firm's culture.

The coordinators gave many examples of how upper management works to promote *pro bono* including:

- *'They make pro bono hours on par with billable hours for associates.'*
- *'Supporting the coordinator to make sure that he is doing it, and supporting a broad range of the types of pro bono, bringing things to his attention whether it is a conference, or an initiative, making sure that they contribute to things within a pro bono basis, supports direct expenditures.'*
- *'Providing memos of encouragement to the attorneys; reminding them that there is a pro bono commitment, appearing at key pro bono events.'*
- *'Establishing an atmosphere in which it is acceptable and expected to do pro bono work.'*
- *'Managing partner strongly supports the program, we have a lot of policy that promote pb, we count pb hours fully towards billable hours, also toward discretionary bonuses, also in the annual review.'*
- *'Pro bono is highlighted at all the meetings.'*
- *'We have a pro bono admin, set aside in the budget ATJ, give full billable hour credit for pro bono, and integrate property with the western Michigan, also have a summer clerk program.'*
- *'They do pro bono work themselves and encourage the young lawyers as they are starting and help them get involved in a case they may have so in the future they can take their one.'*

The coordinators of the firms that reported doing better indicated they respect and admire the role models.

What Are the Main Reasons Lawyers Make or Do Not Make Pro Bono Financial Donations?

The questionnaire attempted to gather opinions of attorneys as to what factors might lead them to make a financial contribution to non-profit civil legal aid organization in lieu of or in addition to *pro bono* service. The questionnaire presented respondents with twelve statements reflecting what some attorneys might say were reasons they gave for making such financial contributions. Respondents who have made such donations in the past were asked to indicate how important the reason given in each statement was for his or her past decision to donate.

Table 20 shows the percentages of respondents who gave each of the possible answers for each statement. The statements have been listed in descending order of the percentage of respondents who said the reason given in the statement was very important. The table indicates that the reason given greatest importance by the greatest percentage of respondents was “I believe lawyers should prioritize their charitable giving to help those in need have access to justice” (38% very or somewhat important), followed by “I feel obligated to contribute under Michigan’s Voluntary *Pro Bono* Standard” (32% very or somewhat important). On the other hand, “My gift is recognized by publishing my name, donor recognition materials, etc.” was judged to be unimportant by the greatest percentage of respondents (79% somewhat unimportant or not important at all).

Item analyses indicated that the twelve items formed six clusters of intercorrelated items. Item 5 was separate from the others and reflects a belief in helping those in need for moral, ethical or political reasons. The scale formed from responses to this item will be referred to as the Altruism Scale. Items 1 and 2 represent a response to external professional pressure (i.e., the office or the SBM Standard). The scale formed from responses to these two items will be referred to as the External Pressure Scale. Items 3 and 4 represent the practical benefit of tax breaks or deductions for donating. The scale formed from responses to these two items will be referred to as the Tax Benefit Scale. Items 7, 8, and 9 represent a sense of obligation to a friend, a colleague, or a group to which the respondent belongs. The scale formed from responses to these three items will be referred to as the Connections Scale. Items 10, 11 and 12 represent the ease of making or controlling the donation. The scale from responses to these three items will be referred to as the Ease Scale. Item 6 was also kept separate. The scale formed from responses to it will be referred to as the Recognition Scale.

Composite scores for each were constructed so that they could vary from 0 if the respondent gave the ‘not important at all’ response to all items in the cluster to 3 if the respondent gave the ‘very important’ response to all items in the cluster. Other combinations of responses would produce intermediate scores. Thus, the higher the score on each scale, the more important that reason was for the respondent in deciding to make a financial donation.

"How important have the following reasons been for making financial contributions to non-profit civil legal aid organizations rather than to other types of charitable organizations?"		% of Respondents			
		Very Important (=3)	Somewhat Important (=2)	Somewhat Unimportant (=1)	Not Important At All (=0)
Number	Statement				
5	I believe lawyers should prioritize their charitable giving to help those in need have access to justice.	16	22	40	22
2	I feel obligated to contribute under Michigan's Voluntary Pro Bono Standard	13	19	30	38
4	I get federal tax deductions for donations to charitable organizations.	12	19	40	29
8	I have a connection with a local legal aid program.	11	18	23	48
1	My office encourages or requires donations to the Access to Justice Fund	8	11	17	64
11	I could donate on my State Bar dues renewal statement.	7	18	22	53
3	I get a Michigan tax credit for endowment gifts to the Access to Justice Fund.	7	19	25	49
9	I have a connection with the State Bar of Michigan or State Bar Foundation	6	21	15	58
7	I was asked to give by a friend or colleague.	5	21	27	47
12	I could donate on my local bar dues renewal statement.	4	19	14	63
10	I can target my Access to Justice fund donation to help build a permanent endowment.	4	21	12	64
6	My gift is recognized by publishing my name, donor recognition materials, etc.	1	19	7	72

Table 21 shows the average score on each of the scales among all respondents and within categories of respondents across the demographic and practice setting variables. The table indicates that:

- The average importance score that was greatest (i.e., more important reason) was on the Altruism Scale (1.49), followed distantly by that on the Tax Benefit Scale. The average importance score was least (i.e., not very important) on the Recognition Scale.
 - The average score on the Altruism Scale was roughly equal to the theoretical midpoint on the scale from 0 to 3 and represents a response between 'somewhat unimportant' and 'somewhat important.'
 - For virtually all groups, the average importance score was higher on the Altruism Scale than on any of the other five scales – the lone exception was that attorneys

in large private firms had a slightly higher average score on the External Pressure Scale than on the Altruism Scale.

TABLE 21: Average Reasons for Donating Scale Scores Among Respondents, by Donation Activity, Demographic and Practice Setting Characteristics						
Attorney Characteristics	Average Scale Score (0=Not Important At All, 3=Very Important)					
	Altruism	External Pressure	Tax Benefit	Connections	Ease	Recognition
2007 SBM (all)	1.49	0.93	1.11	0.85	0.67	0.37
Prior Pro Bono Activity						
Did Pro Bono in 2007	1.61	1.05	1.19	0.90	0.69	0.41
Did Pro Bono, Not in 2007	1.33	0.78	1.01	0.79	0.65	0.33
Gender						
Male	1.40	0.93	1.03	0.79	0.59	0.35
Female	1.64	0.93	1.25	0.95	0.80	0.41
Practice Setting						
Private	1.44	0.93	1.05	0.85	0.66	0.41
Solo	1.46	0.78	0.94	0.79	0.69	0.37
Small (2-10)	1.54	0.77	1.07	0.91	0.67	0.47
Medium (11-20)	1.19	0.88	1.10	0.95	0.75	0.38
Large (21 or more)	1.35	1.38	1.16	0.84	0.57	0.42
Corporate	1.39	1.01	1.24	0.76	0.67	0.27
Government	1.56	0.80	1.21	0.77	0.72	0.28
Academia	1.74	0.81	1.32	1.11	0.59	0.32
Legal Services	1.72	0.99	1.03	0.91	0.66	0.39
Non-Law	1.29	0.79	1.26	0.65	0.68	0.33
Judiciary	1.81	1.11	1.30	0.98	0.76	0.37
Race						
White	1.48	0.93	1.10	0.83	0.65	0.37
African American	1.91	1.01	1.21	1.08	0.88	0.49
Other	1.48	0.90	1.22	0.99	0.91	0.39
Age						
21-30	1.40	0.86	0.95	0.72	0.78	0.31
31-40	1.49	1.00	1.14	1.05	0.82	0.45
41-50	1.51	0.98	1.18	0.89	0.75	0.41
51-60	1.48	0.93	1.13	0.81	0.61	0.36
61-70	1.49	0.81	1.01	0.73	0.55	0.28
71 or older	1.57	1.04	0.98	0.86	0.62	0.41
Region of State						
Region N	1.46	0.74	0.91	0.81	0.70	0.20
Region W	1.58	1.11	1.19	0.91	0.67	0.42
Region E	1.39	0.78	0.97	0.86	0.47	0.34
Region S	1.49	0.92	1.18	0.87	0.66	0.37
Region M	1.48	0.92	1.10	0.83	0.70	0.38

- There were significant differences in the average importance scores on all but one of the scales between those who donated in 2007 and those who had donated at some time in the past but not in 2007. In each case, those who had donated in 2007 had higher average scores on the scale than those who had not donated in 2007. The exception was the Ease Scale, where the averages did not differ significantly.
- Female respondents had higher average importance scores than males on the Altruism, Tax Benefit, Connections, and Ease Scales.
- The average importance scores did not differ significantly among private practice, corporate or government attorneys on the Altruism, External Pressure, Connections and Ease Scales, but attorneys in private practice had a higher average importance score than either corporate or government attorneys on the Recognition Scale and a lower average score on the Tax Benefit Scale.
 - Among private practice attorneys, the average importance score increased with the size of the firm on the Tax Benefit Scale, while attorneys in academia and the judiciary had the highest average importance scores on this scale.
- African American attorneys had a higher average importance score than white (non-Hispanic) or Other racial/ethnic group attorneys on the Altruism and Connections scales, while white (non-Hispanic) attorneys had a lower average importance score than the other two groups on the Ease Scale.
- Younger attorneys – generally – had higher average importance scores than their older counterparts on the Connections and Ease Scales.
- There were no significant differences across regions on five of the six importance scales. Respondents from the North and East regions had lower average importance scores than others on the External Pressure Scale while those from the West region had the highest average score on this scale.

The results indicate that, among those who donated, altruism was the most important reason for donating. The second most important reason was the tax benefits but this was probably less of a reason to make the donation than a reason that donating was less costly and had tax advantages. The third and fourth most important reasons were responsibility to the firm or profession and the appeals of colleagues or other associates. Building appeals for donations on strategies that emphasize these would appear more likely to be successful at eliciting donations in the future.

Partly to assess the culture of the firms or organizations in which attorneys work regarding financial donations, the 2008 survey asked respondents to indicate their office's policy regarding donations to the Access to Justice Fund eligible organizations in lieu of or in addition to *pro bono* service. Of these respondents, 7% said their office encourages them to donate financially in addition to providing *pro bono* service, 2% said their office encourages them to donate instead of providing service, 9% said they are encouraged to do both, and 81% said they are neither encouraged nor discouraged from donating financially.

Table 22 shows the percentage distribution of responses to this question among attorneys in the various practice settings. The table indicates that:

	<i>Percent of Respondents Whose Office. . .</i>			
	Encourages Donation in Addition to Service	Encourages Donation Instead of Service	Encourages Either Service or Donation	Neither Encourages Nor Discourages Donations
Overall	7	2	9	81
Practice Setting				
Private	10	2	11	77
<i>Small (2-10)</i>	7	0	7	87
<i>Medium (11-20)</i>	6	0	7	87
<i>Large (21 or more)</i>	21	6	27	46
Corporate	4	3	12	82
Government	1	1	2	97
Academia	10	0	12	78
Legal Services	9	3	6	82
Non-Law	0	0	4	96
Judiciary	0	9	0	91

- Attorneys in government settings were much less likely to report being encouraged or discouraged about making donations than were those in corporate or private practice settings.
- Attorneys in private practice were more likely than those in corporate or government settings to indicate being encouraged by their offices to donate financially in addition to providing *pro bono* service.
- The distribution of responses among attorneys in academic settings was very much like those in private practice.
- Attorneys in the judiciary were more likely than others to report being encouraged to donate financial in lieu of service, but 91% still reported being neither encouraged nor discouraged.
- Attorneys in larger private firms were much more likely than those in any other setting to report being encouraged to donate financially. Only 46% of attorney in large private firms said they were neither encouraged nor discouraged from donating, while 77-96% of attorneys in all other settings reported being neither encouraged nor discouraged.

In the telephone interviews with *pro bono* coordinators of the 20 largest private firms in the state, the interviewer asked "How do you, as *pro bono* coordinator, feel about the suggested \$300?" A few of the coordinators said "it's too low", and even those who said they were comfortable with it said that they would not mind if it was increased. The justification for an amount that equates to about \$10/hour is that this promotes broader compliance with the idea of doing something about *pro bono*. But one of the respondents stated that "I think it prevents the state bar from building *pro bono* culture into the state bar because it lets people buy out of it...too cheaply". In characterizing the mood of other attorneys in their firms regarding the suggested amount of the

donation, the coordinators said, generally, "they're fine with the \$300" but a few have heard grumblings that it was too much money.

The *pro bono* coordinators generally indicated that the primary reason attorneys in their firm make donations was that it is policy and the employee attorneys do not have the time or willingness to do the *pro bono* work instead --"to get me off their back, out of guilt for not doing actual work, to be able to say that they complied with the standard".

When the *pro bono* coordinators were asked why some attorneys do not donate money, they reported a variety of reasons as indicated by the following comments:

- *"Do not think it is lack of awareness, but there could be better communication on a regular basis instead of the last few months of the year, some people feel that they give to the community in other ways, by giving seminars, serving on boards for no compensations."*
 - *"Does not fit for the firm, the firm donates, not individuals."*
 - *"Excuses such as I don't know how my money is going to be used, I don't know how much is actually going to the cause, I know they take out for admin costs, etc."*
 - *"Hasn't been a part of firm culture, and personal finances."*
 - *"I think that people feel that they have their own charities that they donate to, do not feel bound to donate."*
 - *"I would guess that they are thinking that the firm's contributions cover their portions, and, too, they probably donate to other causes."*
 - *"Maybe because we do legal work, a significant amount of it, and that is enough."*
 - *"Well lawyers in private firms are focused on making money that lawyers often have tunnel vision, because we work in an environment where the focus is so much on money that they are not trying to give it away."*
 - *"Probably lack of familiarity with legal aid and what they do."*
 - *"They are selfish."*
 - *"They feel that they are meeting the standard through time or they feel that they make charitable contributions through a personal matter and it is a personal decision."*
 - *"They have limited pocketbooks."*
-

Conclusions

This report has summarized findings from a large statewide survey of attorneys in Michigan along with the results of a series of telephone interviews with *pro bono* coordinators in some of the state's largest firms and a series of focus groups conducted with attorneys in a number of cities around the state. The primary focus has been the assessment of the amount of *pro bono* legal service or financial contributions that are being provided by the state's attorneys in response to the professional call and the State Bar of Michigan's Voluntary Standard.

In doing so the report has identified the segments of the attorney population that have been more engaged and those that have been less engaged in *pro bono* efforts and, to the extent possible, to contrast data from the SBM 1996 survey and the 2004 and 2008 ABA surveys. Where possible, the report has attempted to separate out some of the numerous factors that play a role in encouraging, discouraging, enabling or interfering with the likelihood that attorneys will participate in *pro bono* activities. One of the goals of this effort has been to provide SBM with information that may prove useful in constructing programs, systems, campaigns, policies or strategies to increase the amount of *pro bono* legal assistance that is available to needy individuals in the state. By doing so, more progress can be made toward the larger goal of ensuring justice for all.

Many of the participants in the focus groups or respondents in the coordinator interviews offered suggestions as to how SBM might increase attorney involvement, how it might reduce some of the challenges or improve the preparedness of attorneys to participating in *pro bono*. A few of these suggestions have been reported here. Many more are included in the summary reports of the coordinator interviews and the focus groups.

It is to the task of using the findings and suggestions to promote more effective *pro bono* efforts that SBM can now turn. It will be a challenging but essential task to be sure.
