



ATTORNEYS MAKING A DIFFERENCE: Pro Bono Domestic Violence Services

By Patricia L. Micklow and Kristan A. Tetens

FAST FACTS

The Pro Bono Project for Domestic Violence Victims extends the reach of existing organizations, which are unable to fill the increasing demand for services.

Just one attorney can transform the life of a domestic violence victim.

A statewide attorney training program is set for May 2001.

The Pro Bono Project for Domestic Violence Victims has curriculum, training development, attorney enrollment, and funding teams to make its mission a reality.

Since 1998, the State Bar of Michigan's Open Justice Commission has undertaken a number of projects designed to eliminate bias and discrimination within the legal community, increase public confidence in the justice system, and ensure that all the state's citizens enjoy equal protection of the law. The extension of convenient, affordable legal services to groups traditionally underserved by our profession is among its most important priorities.

The Violence and Criminal Justice Issues Committee of the Open Justice Commission is actively engaged in increasing access for one of these underserved groups—survivors of domestic violence. The committee's Pro Bono Project for Domestic Violence Victims builds on the pioneering work of the State Bar of Michigan's Standing Committee on Domestic Violence, which was created in 1993. The project's steering committee is a working coalition of experts from across the state representing legal services and legal clinics, domestic violence advocates, and Access to Justice members, as well as the *pro bono* services division of the State Bar.

The goal of the Pro Bono Project for Domestic Violence Victims is to increase the availability of legal services for victims of domestic violence in civil matters directly related to the domestic violence, including:

- Obtaining, modifying, and enforcing personal protection orders
- Divorce, annulment, and separate maintenance
- Spouse and child support
- Child custody and parenting time (visitation)
- Related torts, including wrongful death, assault and battery, trespass, invasion of privacy, and intentional infliction of emotional distress
- Access to government benefits
- Housing and landlord/tenant matters
- Employment/unemployment issues
- Immigrant self-petitions under the Violence Against Women Act

Michigan attorneys willing to represent domestic violence victims on a *pro bono* basis will be recruited, trained, and mentored in an effort to increase the number of qualified legal professionals capable of representing battered women in these and similar civil legal matters. A referral network will ease the process of connecting attorneys with clients.

Attorneys at any level of experience and in any field of practice are welcome to participate in this program. Even those who practice in areas other than family law can benefit from learning how to recognize and address domestic violence; its prevalence in our society guarantees that every attorney will encounter clients affected by it sooner or later. Experienced attorneys are needed both to provide services and to mentor other participants.

Although the state's legal aid offices and law school clinics provide excellent representation to many battered women,¹ their resources and geographical reach are limited. Many victims who do not qualify financially for these services cannot afford to hire an attorney and thus are unable to pursue their legal rights. Because the legal problems faced by domestic violence victims range from the very simple to the very complex, *pro bono* services must be available at whatever level they are sought. The Pro Bono Project for Domestic Violence Victims will complement the service and training programs of legal aid offices, law schools, govern-

ment agencies, and nonprofit advocacy organizations, such as the Michigan Coalition Against Domestic and Sexual Violence. Attorneys in private practice in every area of the state are needed to fill the gap between the capacity of these programs and the growing demand for services.

The need has never been more urgent or the problem more widespread. Children living in violent households are especially at risk. As helpless eyewitnesses to the battering of their mother, as pawns of the abuser in his attempts to exert control over her, and as sufferers of both accidental and intentional injury, children experience profound physical, emotional, cognitive, and behavioral effects from domestic violence. Some, especially boys, are at increased risk for perpetuating abuse in the families they form as adults.

Although battered women are found in every economic class, poor women typically have the greatest difficulty locating and retaining legal representation. The State Bar of Michigan's Access to Justice program reports that while there is one lawyer for every 340

Domestic Violence—a pattern of physical, sexual, emotional, and/or financial abuse, perpetrated with the intent and result of establishing and maintaining control over an intimate partner.

More than one-third of all women have experienced domestic violence and one out of five women with current partners can expect to experience violence at some time during that relationship.

—Michigan Department of Community Health survey



Michigan domestic violence service providers sheltered 13,429 women and children in 1998. That same year, the state's domestic violence crisis lines received more than 60,000 crisis calls.

—Family Independence Agency's Domestic Violence Prevention and Treatment Board

Michigan residents living above poverty level, there is only one legal aid lawyer for every 6,500 indigent residents. It is simply impossible for legal aid programs to reach everyone who needs help, including economically disadvantaged women and children who are victims of domestic violence.

TRANSFORMING LIVES

How many lawyers does it take to change a life? Just one, when that one has accepted the *pro bono* challenge of helping a victim of domestic violence regain control of her future.

Pro bono service is, of course, every attorney's ethical responsibility, not merely an act of charity. The delivery of legal services to those most in need and least able to access them is one of the core values of our profession. A decade ago, the Representative Assembly of the State Bar of Michigan adopted a voluntary standard for *pro bono* participation. This standard calls for every attorney to provide representation, without charge, to a minimum of three low-income individuals every year. Alternatively, an attorney can satisfy the standard by providing a minimum of 30 hours of

professional service at no fee or a reduced fee to low-income individuals.

Rule 6.1 of the Michigan Rules of Professional Conduct also stresses the lawyer's obligation to give public interest legal service. The comment to the rule states that "every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged." The senior partner in a large law firm and the new assistant prosecuting attorney have exactly the same professional responsibility in this regard. The leadership example of judges is particularly important—by supporting local *pro bono* efforts, they set a tone and expectation of public service that reinforces the legal community's commitment to ensuring equal access to justice.

For attorneys who take on *pro bono* domestic violence cases, the rewards are deeper than knowing that an important obligation has been crossed off the "To Do" list. Many take great satisfaction in knowing that their professional skills are being used to address a socially important issue. They often say

that the experience reconnects them to the idealism and sense of purpose that made them want to become lawyers in the first place. For new attorneys or those without litigation experience, a courtroom appearance on behalf of a domestic violence victim can be an exhilarating test of one's skills. Important negotiation skills are honed during encounters with opposing counsel. Creative problem-solving techniques are strengthened. New professional relationships are established, generating a network of contacts that can lead to future client referrals. A successful outcome in a tort action can result in a share of the damages award. Most importantly, the *pro bono* domestic violence attorney goes home at night knowing that one more woman will be able to chart a path to personal safety and freedom for herself and her children.

The impact on the domestic violence victim is even more significant. The fact that an attorney is willing to take her case on a *pro bono* basis tells her that she is valued by the legal system. Often, this marks the first time the victim has been told that she is deserving of support and professional assistance. This kind of compassionate attention has the ability to transform lives.

GETTING INVOLVED

The centerpiece of the Pro Bono Project for Domestic Violence Victims is a one-day statewide training seminar in May 2001 that will be offered free of charge to attorneys who agree to undertake the *pro bono* representation of one or more domestic violence victims in the coming year. The seminar will be presented simultaneously at 12 sites across Michigan through state-of-the-art videoconferencing.

The live video component will be supplemented at each site with a panel of area judges and attorneys who will tailor the presentation to local practice.



PRO BONO OPPORTUNITIES TO SERVE DOMESTIC VIOLENCE VICTIMS

Attorneys participating in the Pro Bono Project for Domestic Violence Victims May 2001 training program can volunteer to take on short-term or long-term projects to fit their schedules.

Examples of short-term assistance:

- Helping a domestic violence victim complete and file a petition for a personal protection order (PPO)
- Representing a domestic violence victim in a contested PPO hearing
- Helping a domestic violence victim file a petition for change of domicile
- Helping a divorced domestic violence victim pursue a spousal or child support enforcement action, or resolve a parenting time (visitation) issue

Examples of long-term assistance:

- Handling a divorce involving domestic violence, from filing the complaint to enforcing the judgment
- Pursuing related domestic violence and stalking tort claims for monetary damages

Forms and sample pleadings will be available. Participants will also receive a comprehensive manual that provides step-by-step directions and suggestions for working with clients who have been affected by domestic violence. The training seminar and manual combine to provide a solid foundation in what may be an entirely new practice area for the *pro bono* attorney. Attorneys who complete the training seminar may request to be introduced to an established family law attorney or domestic violence victim advocate in their community. These mentors can provide further advice and ongoing support. Project staff members will help make referrals and appointments for those attorneys who attend the training seminar and agree to undertake at least one *pro bono* case.

PROJECT DEVELOPMENT

Four teams of attorneys and domestic violence specialists direct the activities of the Pro Bono Project for Domestic Violence Victims. Each has worked

collaboratively with judges, family law experts, and domestic violence service providers to design the training program and follow-up support services.

Curriculum Design Team. This team has developed the training curriculum and is writing a comprehensive manual that will help *pro bono* attorneys address any issue likely to arise during the representation of a domestic violence victim. The attorneys and domestic violence specialists on this team have carefully selected the topics and teaching methodology to ensure that participants in the training program will gain the skills needed to deal effectively with the legal needs of domestic violence victims and to have a rewarding *pro bono* experience.

Training Development Team. Members of this team are organizing the May 2001 training session with both statewide and local components geared to the needs and time constraints of participants. They have arranged for comfortable training facilities at 12 sites

across the state, and are in the process of selecting expert instructors for each site.

Attorney Enrollment Team. This team is developing plans for enrolling attorneys into the training program and advertising its availability. In partnership with legal services offices and domestic violence shelters, members of this team are making presentations to local and state bar associations to promote attendance and participation. Last October, team leaders presented a seminar on *pro bono* involvement at the Michigan Judicial Conference, where they also enlisted the support of individual judges. The team continues to explore ways to increase incentives for firms and corporations to support the *pro bono* work of their attorneys.

Funding Team. Developing and executing a funding strategy, with a focus on grant support, is the responsibility of this team.

TO LEARN MORE

For more information about the Pro Bono Project for Domestic Violence Victims, to register for the spring training seminar, or to volunteer to be a mentor, contact Judy Hershkowitz, State Bar of Michigan, at (800) 968-1442, ext. 6335; jhershkowitz@mail.michbar.org. Additional details are also available at the Open Justice Commission's website: www.michbar.org/oj ♦

Patricia L. Micklow retired in June 2000 from the bench of the 96th District Court in Marquette County, to which she was first elected in 1987. She is a member of the Open Justice Commission and serves as the chairperson of the Violence and Criminal Justice Issues Committee. She served on the Michigan Supreme Court's task forces on gender and racial/ethnic issues in the courts and the State Bar of Michigan Task Force on Race/Ethnic and Gender Issues in the Courts and the Legal Profession. In 1977, she co-authored the first legal article on domestic violence published in the United States. She is a 1975 graduate of the University of Michigan Law School.

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FOOTNOTE

1. This article uses “she” and “her” when referring to domestic violence victims because statistically, most victims are female. The National Violence Against Women Survey, co-sponsored by the National Institute of Justice and the Centers for Disease Control and Prevention (2000), found that women are significantly more likely

than men to report being victims of intimate partner violence. The authors and staff of the Pro Bono Project for Domestic Violence Victims recognize that men can be victims of family violence and that battering can occur in gay and lesbian relationships. The project will provide support to any victim of domestic violence, male or female.

