

Partnering to Provide Pro Bono Legal Aid

MI-LAPP matches high-impact cases and low-income clients with lawyers from large firms

Just over two years ago, Aronica Warren, a public housing tenant in Ypsilanti, reported to the police that she had been attacked in her apartment by an ex-boyfriend. He was later arrested and convicted of the assault. She, however, received an eviction notice from the public housing authorities in Ypsilanti. The eviction was based on a "first strike" policy, which states that regardless of who commits the crime, residents can be evicted for any criminal activity on the premises.

Legal Services of Southern Michigan/Family Law Project, succeeded in getting the eviction dismissed on technical grounds. The high-impact nature of the litigation, however, prompted the Michigan Poverty Law Program, MPLP, which provides state support to legal programs, to refer the case to the Michigan Litigation Assistance Partnership Program or MI-LAPP.

MI-LAPP matches high-impact cases and low-income clients with lawyers from large firms who take on these challenges pro bono. In this instance, MI-LAPP referred the matter to the American Civil Liberties Union, which is suing the Ypsilanti Housing Commission for violating Warren's right to be free from sexual discrimination under the Fair Housing Act, Due Process Clause of the United States Constitution, and the Elliott-Larsen Civil Rights Act. Cooperating attorneys from Dykema Gossett, one of the largest firms in Michigan, are also involved in this ongoing case.

Conceived in 1997 out of sheer need and extenuating circumstances (a 33 percent cut in federal funding for civil legal services to the poor and numerous restrictions on such programs) MI-LAPP has emerged as the first program of its kind in the country to successfully link the resources of large law firms with legal service programs to handle complex or significant cases from poor clients

and nonprofit agencies. Such cases range from appellate family or housing law issues to the representation of nonprofit organizations in non-litigation matters such as incorporation, employee benefits, labor negotiations, and tax matters. It is work that often requires more than the 30-hours-per-year guideline set in the State Bar pro bono standard. In some instances, it involves hundreds of hours of specialized work.

"We were really trying to bring in a new group of lawyers who wanted to do more complex work and realized that to bring them in, we needed to do so on a statewide basis because their firms are really regional firms as opposed to local firms," said Robert Gillett, director of Legal Services of South Central Michigan and one of the founders of MI-LAPP. "We also felt that legal services lawyers hadn't really used appellate courts as effectively as they might have to make policy and so we began working on a group of cases in 1998/1999."

In the first year of its existence, the Michigan Supreme Court considered six MI-LAPP cases and five achieved favorable results. "This is something that didn't exist at all before 1998 and now real significant legal work is being done pro bono," Gillett said. Since its inception, 338 cases have been referred to MI-LAPP.

Another MI-LAPP pioneer, Jonathan Rowe, formerly of Dykema Gossett and now a partner in the Ann Arbor firm of Soble and Rowe, has been the chairperson of the State Bar Pro Bono Involvement Committee for the past six years. "It made a lot of sense to have a program like that in Michigan where a group of legal services people spot the big cases, the ones that are going to have more of an impact, going to have harder issues, and were going to require more hours out of people. And they would steer those towards larger firms that are better situated

to do that," Rowe said. "In a large firm it is almost easier to get a few lawyers to work on one big case than it is to get them to take several or a dozen smaller cases. Once it comes in, everybody works on it and they share a load among many people. It just really worked out better."

Modeled after an American Bar Association project, MI-LAPP is a partnership among three entities—the State Bar, the Michigan Poverty Law Program, and Community Legal Resources, which falls under the umbrella of Michigan Legal Services in Detroit. (See diagram). As cases come in and are screened by these entities, those appropriate are referred to MI-LAPP and from there, to law firms to resolve. Cases raising poverty issues are referred from time to time to the American Civil Liberties Union as in the *Warren* case. Another recent significant case filtered through MI-LAPP is the Welfare Drug Testing case. In this case, also involving big-firm lawyers and the ACLU, a Michigan law that requires all welfare recipients to undergo mandatory drug testing is being challenged. The drug-testing program was found to be unconstitutional at the trial level and the case is now under appeal.

MI-LAPP is a referral mechanism and is not actually involved in litigating the cases, explained Tana Lin, litigation coordinator at MPLP, which is a collaborative effort between the University of Michigan Law School and Legal Services of South Central Michigan. In the *Warren* case, for example, MPLP provides support to the ACLU by reviewing pleadings and consulting with the ACLU on the case, Lin said. "We actively support the cases we refer in whatever manner each cooperating attorney feels appropriate. In the future, we plan to actively participate in more cases as co-counsel, in addition to our continuing support role," Lin added.

Anne Schroth is an assistant professor at the University of Michigan who works with the Michigan Clinical Law Program and liaises closely with the Michigan Poverty Law Program. "Historically, we have worked with State Bar staff in recruiting private firms to take pro bono cases referred from legal service programs. The cases referred through MI-LAPP are generally cases that have some statewide significance. In addition, we have a pool of firms that have agreed to do Qualified Domestic Relations Orders [specialized orders providing for the distribution of pension benefits upon divorce] in domestic relations cases, which legal services offices often don't have the resources to handle."

MI-LAPP partner, Community Legal Resources (CLR) handles most of the business and corporate transactions that involve nonprofit organizations. These groups are involved in revitalizing blighted urban neighborhoods and creating local economic development to improve the quality of life in low-income communities. Community Legal Resources matches these organizations with volunteer attorneys specializing in fields like corporate, tax, contract, real estate, and intellectual property law.

Steven Tobocman is the executive director of CLR. "Community Legal Resources works cooperatively with MI-LAPP in an effort to coordinate some of the pro bono approaches to large law firms. The programs have benefited occasionally from each other's relationships, appeals, and ability to get meaningful pro bono work assigned. Together, the programs are providing significant legal services to the poor."

According to Tobocman, the partnership is working well because of the "commitment of the individuals at the table. There are few public interest lawyers in the country as dedicated and productive as Bob Gillett. Similarly, in the three years after its formation, Community Legal Resources was recognized as one of the five most outstanding business law pro bono programs by the Power of Attorney Foundation of New York. That status was achieved because of the great work of our clients, the tremendous needs in Detroit and other urban areas of the state and the dedication of our staff."

Tobocman also praised Michigan lawyers for their generosity. "We have had some of the highest paid and most skilful attorneys in the country spend dozens of hours helping

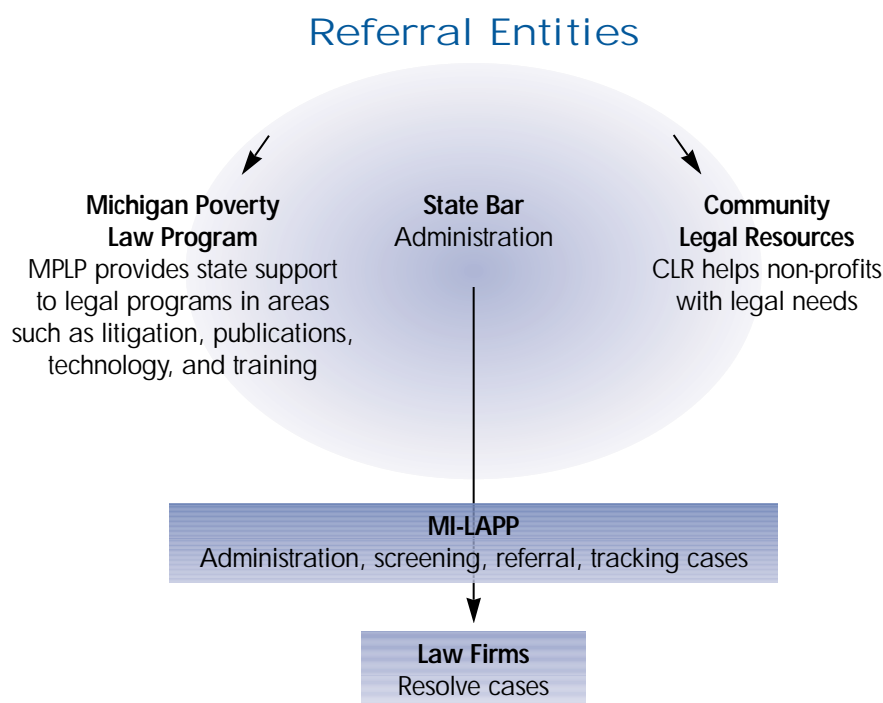
local grassroots organizations. It has been relatively easy to find attorneys willing to volunteer to provide legal representation in transactional matters, even if the projects require hours and months of work. The only difficulty Community Legal Resources has had in placing matters relates to litigation and political issues. Lawyers and law firms would rather work to proactively attack the causes of poverty than in trying to deal with a situation that already has gone wrong at some level. Further, it is far different to ask a lawyer to volunteer to build housing funded by a local municipality than it is to get involved with litigation relating to that municipality, a developer, or contractor."

Although MI-LAPP's focus has been on large-firm involvement, the contributions of solo practitioners like Anne Argiroff of Troy and Jerrold Schrottenboer, an assistant prosecuting attorney in Jackson, both of whom have devoted hundreds of hours to MI-LAPP cases, have also been invaluable to the overall success of the program. Among other projects, Argiroff drafted an amicus brief on behalf of a number of statewide domestic violence coalitions for the U.S. Supreme Court for the *Troxel* case about visitation and individual rights. Schrottenboer, an appellate specialist has successfully briefed several MI-LAPP cases before the Michigan Supreme Court.

As a pro bono program, MI-LAPP is not a separately funded entity. MPLP, which is funded by the State Bar Foundation and the University of Michigan, donates staff to MI-LAPP. The State Bar of Michigan and CLR also do the same. The partnership does take some effort because of the minimal resources of each program as well as the technology constraints at CLR, observed Steve Tobocman. "Until now the program was largely tracked via paper forms and files. With over 250 case matters, that makes regular reporting and coordination with MI-LAPP a considerable undertaking. We have just purchased a database program from our peer program in New York City that has been doing this work for 25 years. We anticipate that this will vastly improve our ability to work in a more responsive and coordinated fashion with MI-LAPP."

To more effectively select high-impact cases, closer attention is necessary to smooth

MI-LAPP Referral Process



some wrinkles in the screening process in legal service offices. "One of the challenges is to work with local programs so that they are identifying the cases that are there in their communities and getting them into the system," Gillett said. "Instead, we're getting cases from community organizations. Its not like we're not getting the cases but we're not getting the volume expected from legal services offices." Another issue mentioned was staffing stability at the State Bar of Michigan, where budget constraints have necessitated some reconfiguration.

Currently, up to 20 large firms are involved in MI-LAPP. The energy and effort of people like Robert Gilbert of the Miller Canfield firm and a member of the State Bar's Access to Justice Corporate Committee have been critical in attracting financial commitment and involvement from large firms. Since the mid 90s, he has been successfully raising money for the Bar's Access to Justice program, which serves the civil legal needs of the poor. But Gilbert believes large firms should be doing more. "Some firms are doing an excellent job, but by and large there's probably more that can be done by most large law firms just because there is a need and it never gets fulfilled completely." (See sidebar)

One of the large firms that has consistently demonstrated its commitment to pro bono work is Dykema Gossett. To encourage lawyers to participate, pro bono coordinator Margaret Costello points out that various incentives are in place. "We give true 'billable hour' credit for up to 40 hours of pro bono work, and if the attorney meets the minimum billable hours required, credit is given for all pro bono work. All attorneys are required to do at least 30 hours of pro bono work per year or contribute \$300 to Access to Justice or an approved legal services program of their choice. We also use pro bono

Some Related Facts

Michigan's Legal Aid programs handled more than 55,000 cases in 2000.

Some 1.5 million people in Michigan are eligible for civil legal aid because they live at or below 125 percent of the federal poverty guideline—\$17,650 annually for a family of four.

Studies nationally estimate that no more than 20 percent of the legal needs of the poor are met each year.

In 2000, pro bono lawyers handled more than 3,600 cases and gave more than 28,000 hours.

—Justice for All, Michigan State Bar Foundation
Annual Grants Report 2000.

Although there is one lawyer for every 340 people in Michigan, there is only one legal aid attorney for every 6,500 indigent individuals.

—State Bar of Michigan Justice Program

matters as training opportunities for newer lawyers or lawyers who want to get involved in areas in which they do not normally work. Several attorneys' first trials, first published opinions, etc., have been with pro bono matters." In addition, the firm also recognizes attorneys who excel with honors and awards and publicize these to clients.

Costello says Dykema lawyers are genuinely proud of their firm's reputation in this area and they want to do their part. Still, in her view "Detroit in general does not have the pro bono 'culture' that Washington D.C., Minneapolis, and some other big cities have. In those cities and others, pro bono work is held in high esteem. Most Michigan firms are trying to do quality pro bono work. In

my opinion, the biggest obstacles are time—if firms don't really credit pro bono time, and even if they do, the argument is that it takes away from billable work and the quality of the matters referred. For example, it is difficult to get excited about getting a \$2,500 judgment against a contractor that may never be collected."

Whatever challenges or obstacles lie in the way, there is still a great need for legal services for the poor. An often-quoted statistic cites that although there is one lawyer for every 340 people in Michigan, there is only one legal aid attorney for every 6,500 indigent individuals. A referral mechanism like MI-LAPP is one way to make sure that poor people do not fall through the cracks of the justice system. As Jonathan Rowe puts it, "the most significant thing that the State Bar Pro Bono Involvement Committee has done in the last five years is to get the MI-LAPP program up and running. I think that was our best accomplishment. It was something that there was a real need for, and we're glad we did it." ◆

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