

A Conversation with Laura Klein, Director of the Department of Justice's Pro Bono Program

Recently, The Federal Lawyer sat down with Laura Klein, the program manager for the pro bono program at the U.S. Department of Justice. She discussed the origins of the program, the difficulties that government attorneys face when they volunteer for pro bono work, and some of the program's success stories. Below are excerpts from the interview.

TFL: How did the department's pro bono program get started?

Klein: Although government attorneys have always been permitted to do pro bono work, the organized effort to promote those activities did not emerge until 1996. That year, President Clinton issued Executive Order 12988, instructing all federal agencies to encourage their employees to volunteer in their communities and to develop policies to make it easier for them to do so. The executive order specifically noted pro bono work by federal attorneys: "Government Pro Bono and Volunteer Service. All Federal agencies should develop appropriate programs to encourage and facilitate pro bono legal and other volunteer service by government employees to be performed on their own time, including attorneys, as permitted by statute, regulation, or other rule or guideline." The order also designated the attorney general as coordinator of the governmentwide effort.

Following the issuance of the executive order, the Department of Justice drafted and finalized its Policy Statement on Pro Bono Legal and Volunteer Services. This policy defines pro bono legal services, outlines the statutory and regulatory restrictions and limitations facing federal attorneys who wish to engage in pro bono work, and describes the approval process that attorneys and legal staff must follow before beginning any pro bono project. The policy also established the department's Pro Bono Committee and the position of pro bono program manager to run the program. The Pro Bono Committee consists of at least one attorney representative from each department component. The pro bono program manager chairs the committee and manages the daily operation of the pro bono program.

TFL: How does the program operate?

Klein: The pro bono program manager promotes pro bono work through planned events and activities, includ-



ing opportunities to volunteer, recognition events, and informational sessions. The program manager also assists individual volunteers with their pro bono projects. The Pro Bono Committee publicizes the programs and helps facilitate the approval of employee requests to do pro bono work.

TFL: In what types of pro bono work have DOJ attorneys been involved?

Klein: DOJ attorneys handle a wide variety of pro bono projects. They work at legal clinics; draft wills; serve as guardians ad litem; act as mediators; and handle cases in family law, domestic violence, landlord-tenant relations, personal injury, consumer issues, employment, and predatory lending matters.

TFL: How do the attorneys find suitable pro bono work?

Klein: I work closely with legal services organizations to find and develop appropriate opportunities for government attorneys. Each month I compile a list of current pro bono opportunities and distribute the list to the Pro Bono Committee, whose members distribute it to all attorneys and legal staff in their divisions. The list is also posted on the department's intranet site. Department attorneys may also call me for assistance in finding an appropriate project.

TFL: How do DOJ attorneys with full caseloads find time to take on pro bono work?

Klein: DOJ attorneys do pro bono work on their own time, which makes their contributions that much more remarkable. The attorneys give up their personal time to volunteer their legal skills and receive no credit from the

department—promotional or otherwise—for doing pro bono work.

TFL: What strategies do you employ to encourage pro bono work?

Klein: We employ a number of strategies to encourage our attorneys to do pro bono work, including offering support and resources to volunteers, publicizing activities and events, and holding a recognition event to honor our volunteers.

First, we try to set up a network of support for our volunteers to ensure that they have good pro bono experiences. If they do, they will volunteer again and will often encourage their colleagues to join them. We offer many programs and resources aimed at training our attorneys, both on the substantive law in question in their case or project and on the statutes and regulations governing what they can and cannot do as government attorneys. For example, we hold “Legal Briefings” on various areas of law that occur frequently in pro bono work. These briefings are held during the lunch hour and are intended to help attorneys learn to issue spot when interviewing clients. Topics recently covered include family law, landlord-tenant law, bankruptcy, identity theft, domestic violence, and employment law. We also hold at least one full training session each year, for which we bring in a legal service provider to train attorneys to take cases in one area of law. In previous years, we have held training sessions on domestic violence law, drafting wills, assisting the homeless, and the basics of family law in Washington, D.C. Although the Washington legal services community holds many training sessions each year, we have found that offering one such training session at the agency draws a significant number of government attorneys. Additionally, we also offer the “Pro Bono Road Show,” a lunchtime presentation discussing the dos and don’ts of pro bono work for government attorneys and legal staff. This presentation also identifies specific opportunities available for government attorneys to help them get started in finding a case or project.

At DOJ, we also offer a support staff resource pool to match our attorneys with support staff to assist on their pro bono cases. DOJ attorneys are prohibited from asking support staff in their offices or under their supervision to work on a pro bono case. Therefore, support staff—such as paralegals, legal secretaries, translators, and others—may volunteer their skills to the pro bono program manager. Attorneys can then request assistance from the pro bono program, which will match them with an appropriate support staff volunteer. This tool has worked tremendously well in providing our attorneys with assistance as well as giving our support staff some valuable experience that they might not otherwise have.

A final element of the support system is the position of pro bono program manager, which was created to advise and assist volunteers with their pro bono work. If a volunteer needs sample pleadings, a mentor, co-counsel, a paralegal, or any additional resources or guidance, he or she knows to call me. Having someone to call reassures

volunteers that they are not alone once they take on a case or project.

Second, the DOJ pro bono program offers a number of events throughout the year to publicize pro bono opportunities. Each year, DOJ (or another federal agency) holds a pro bono fair, an event where local legal service providers set up information tables for prospective volunteers. This opportunity allows volunteers to meet the staff, ask questions, and sign up on the spot if they wish. We also hold panel discussions and other events featuring speakers from local providers, such as the Legal Briefings and training session mentioned earlier, to introduce government attorneys and legal staff to the organizations that need them to volunteer. Additionally, Pro Bono Road Shows and other information sessions offer opportunities to inform department employees about pro bono opportunities. These events are publicized throughout the department. As noted earlier, we also send out a list of current pro bono opportunities each month.

Finally, once a year, DOJ holds a recognition event to honor our pro bono volunteers. At the event, which is held in the Great Hall at the main Justice Building, a senior department official offers remarks thanking the volunteers. In the past, the attorney general, the deputy attorney general, and the associate attorney general have participated in the event. We usually invite the president of the District of Columbia Bar Association or the director of the D.C. Bar’s pro bono program to give remarks as well because our pro bono program works very closely with the D.C. Bar’s pro bono program. The volunteers also receive personalized certificates of appreciation from the department.

TFL: How does the program handle conflict of interest issues?

Klein: Each attorney or staff member who wishes to engage in pro bono work must obtain approval from his or her component. The approval must be signed by the volunteer’s direct supervisor, component ethics officer, and component head. The ethics officer is responsible for completing a conflicts check based on information provided by the volunteer.

TFL: What advice would you offer to other federal agencies interested in setting up a pro bono program?

Klein: Agencies interested in setting up a pro bono program should join the Interagency Pro Bono Working Group, a committee that currently consists of representatives of more than 30 federal agencies. The working group actively promotes pro bono work for all federal agencies. Like the DOJ’s Pro Bono Program, the working group holds events and activities aimed at publicizing pro bono opportunities appropriate for government attorneys and legal staff. The most notable of these efforts is Government Pro Bono Week, a week of events dedicated to promoting and celebrating pro bono work by federal attorneys. It has been held every October since 2003, this past year being its fifth anniversary. The 2007 Government Pro Bono Week featured a pro bono fair at the Department of Justice, a

legal briefing at the Securities and Exchange Commission, a volunteer appreciation luncheon at the Federal Deposit Insurance Corporation, and the Federal Government Pro Bono Recognition Reception hosted by the chief judges of the D.C. Circuit Judicial Conference. At the recognition reception, the chief judges presented the first Federal Agency Pro Bono Leadership Award to the Securities and Exchange Commission. The award was created by the working group to recognize an agency that has demonstrated a significant commitment to pro bono efforts over the last two years.

Another activity undertaken by the Interagency Pro Bono Working Group is outreach to federal agency field offices. We are currently developing a pilot pro bono program in Chicago, which we hope to replicate in other cities if it is successful.

TFL: Do you know of any other agencies with pro bono programs as successful as your own?

Klein: No other agency has a program as developed and active as the DOJ Pro Bono Program, because no other agency has a paid pro bono program manager to run it. However, the Department of Transportation has a wonderful pro bono program, structured similarly to the DOJ's program. The National Labor Relations Board, the Federal Deposit Insurance Corporation, the Department of State, the Department of Labor, the Securities and Exchange Commission, the U.S. Postal Service, the U.S. Agency for International Development, the Federal Communications Commission, and others have varying degrees of formal programs but are very supportive of their attorneys' efforts to do pro bono work.

TFL: Are there specific challenges that exist for federal attorneys interested in doing pro bono work?

Klein: Federal government attorneys face a larger set of statutory and regulatory restrictions and limitations than private sector attorneys face when they wish to engage in pro bono activity. For example, under 18 U.S.C. § 205, federal attorneys cannot represent someone before any court or any federal agency on a matter in which the United States is a party or has a substantial interest. This rule eliminates many areas of pro bono work for federal government attorneys, such as immigration, public benefits, tax, and bankruptcy cases. DOJ attorneys are further limited by regulation, which prohibits engagement in any outside employment that involves criminal matters—whether they are federal, state, or local. Even with these rules, however, there are still many appropriate pro bono opportunities for federal attorneys.

In addition to the limitations on the scope of appropriate opportunities, federal attorneys face restrictions on how they can do pro bono work. When engaged in pro bono work, federal attorneys are working in their individual capacities, not as representatives of the federal government. They cannot use agency letterhead, agency business cards, or support staff to assist them. They are not covered by malpractice insurance and are required to do the pro bono work on their own time, not during business hours, unless they use vacation time or, if per-

mitted, make up the time during which they are out of the office.

TFL: Would you like to share any examples of pro bono work or accomplishments of which you are particularly proud?

Klein: The department is proud of the pro bono work its attorneys do in every case and clinic, but I can offer a few examples of cases. First, two attorneys and a paralegal defended a Muslim immigrant who was being sued by a hospital for nonpayment after he was involuntarily committed to the psychiatric ward of the hospital shortly after Sept. 11. The client and his supervisor, who worked at the hospital facility, had apparently argued about who was responsible for the 9/11 attacks, and the supervisor ultimately called Security, who then had the client admitted to the hospital against his wishes. When the attorneys accepted the case, they were told that the best likely outcome would be to arrange a payment schedule for their client. However, upon investigating the facts of the case, the attorneys discovered that their client had been committed under questionable circumstances and held for no defensible reason. There was also evidence that their client had never been provided an interpreter to assist with translation, despite his request for one and the recommendations of nurses. The attorneys prepared an amended answer with counterclaims against the hospital for false imprisonment, negligence, and battery. The hospital dismissed its claims against the client and dropped its pursuit of payment.

Second, three Department of Justice attorneys jointly handled seven cases on behalf of tenants who were being evicted from a building that was being put up for sale. In January 2004, the tenants received a notice to vacate for discontinuance of use and occupancy, along with an offer for sale. The notice was accompanied by a certification by the landlord that stated: "The property is going to be completely renovated and then sold as a private home. It will then be an owner occupied property." In fact, at the time of the notice and as early as April 2003, the property was listed for sale as a "multifamily" property. The sale listing later claimed that the house was "perfect for condo conversion" and could be delivered "vacant." The attorneys argued that the notice to vacate was inadequate and did not meet the requirements of D.C. law, which does not authorize eviction simply to allow a landlord to sell his property "vacant." Faced with a copy of the listing, the landlord agreed to settle the case. The tenants each received \$7,000 and three months' free rent while they looked for new housing. All the tenants vacated the building by June 30, 2005, as agreed.

These are just two examples of the great work Department of Justice and other federal attorneys are doing on a pro bono basis. The department also staffs the D.C. Bar's Pro Bono Program Advice and Referral Clinic eight times each year and commits to placing 15 or more pro bono cases from the D.C. Bar's Law Firm Clinic each year. We have maintained these commitments for many years and are proud of our ability to fulfill them. **TFL**