

Pro Bono Update – January 2011

In Dauphin County, the private bar, legal services, and the bench created a cooperative pro bono program that relies on their joint support. This foundation of strong support and close cooperation allows us to pursue creative pro bono opportunities.

A. History

On May 1, 1991, the Dauphin County Bar Association members adopted a resolution to establish the Pro Bono Program and the mechanism whereby each member is asked to accept a certain number of pro bono cases annually or make a financial contribution. The resolution states:

RESOLVED that the Dauphin County Bar Association urges each member of the Association to contribute at least one-half day of service each year to the Dauphin County Pro Bono Program. A member may opt out of the Dauphin County Bar Association Pro Bono Program in lieu thereof is encouraged to contribute the sum of \$400 annually to Central Pennsylvania [now known as MidPenn] Legal Services.

Assignments to participating members shall be made in accordance with the procedures approved by the Board of Directors in consultation with the Special Pro Bono Committee. The said one-half day assignments may be served at the offices of Central Pennsylvania Legal Services which will make available an office and other assistance which may be required for the initial client interview, or in the member's office. Each volunteer member shall interview no more than three prospective clients. All cases so assigned are the responsibility of the member who interviewed the client.

Due to the members' support, the Bar Association was able to reduce the Legal Services' backlog of cases. Thus, in 1993, the Bar Association changed the expectation and, asked members to accept only two cases or contribute \$300. This expectation of participation continues to this day. The Bar Association has made pro bono part of what it means to be a lawyer in Dauphin County.

In 2003, the Bar Association expanded its commitment to pro bono legal services by creating a full-time staff position. While the position is funded by the Dauphin County Bar Association, the attorney is physically located in the Legal Services' office to promote close coordination between the Bar Association and legal services.



B. MidPenn Legal Services Referrals

The majority (69%) of our pro bono attorneys continue to participate through the traditional referral program with MidPenn Legal Services. The Program is coordinated by the Bar Association Public Services Coordinator, with the client scheduling handled by the Legal Services intake staff. Each member is asked to take a turn for pro bono appointments. The Public Services Coordinator uses the Bar Association database of 1,400 members to send an email to each member in turn. The email reads, in part:

We have reached your name on our alphabetical membership list. Thus, we would like to schedule you to see two clients at MidPenn Legal Services, 213 N. Front Street, Harrisburg on [date] beginning at 9:00 AM, if that date is convenient. If you would prefer to interview the clients at your office or on another date, please contact Sally Heffelfinger at 232-0581.

Once an attorney accepts the appointment time and date, MidPenn calls the attorney to determine what types of cases the attorney prefers. MidPenn makes every effort to match the pro bono attorney's interests and skills with the client's needs. MidPenn refers cases to pro bono attorneys in the following areas: family Law (about 50% of the cases), landlord/tenant, consumer law, debt collection, bankruptcy, and unemployment compensation.



MidPenn staff screens each case to ensure that

- The client is income eligible,
- The case has at least "threshold" legal merit, and
- The case is appropriate to refer to a pro bono attorney.

Once the pro bono attorney has interviewed the client and reviewed the case, the attorney is free to make his or her own merit determination regarding the client's claim and, if ethically appropriate, decline further representation. Malpractice

insurance is provided through MidPenn.

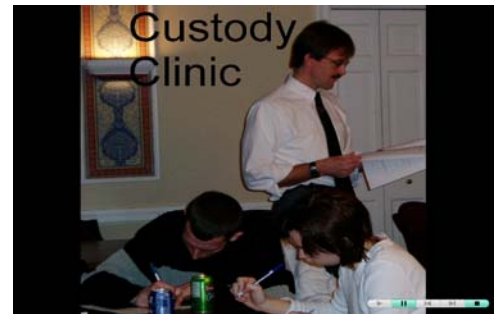
C. Special Projects

Based on the strength of the basic pro bono referral program, the Bar has been able to add special projects. The Bar Association encourages lawyers at all seniority levels and practice areas to participate. The new projects address unmet legal needs and meet the special needs of attorneys who have difficulty participating in traditional pro bono referral programs (e.g., government attorneys and in-house corporate counsel).

1) Pro Se Custody and Divorce Clinics

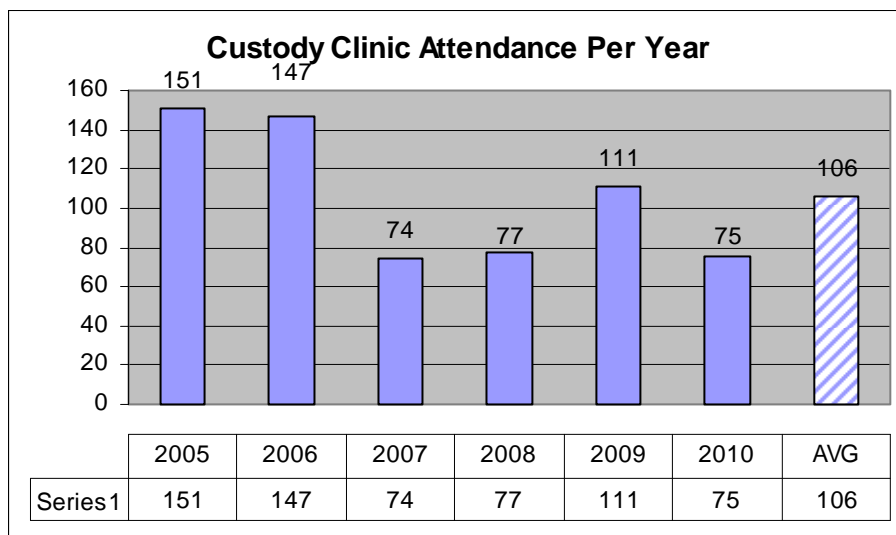
In response to the high demand for legal assistance in family law matters, the Pro Bono Program hosts Pro Se Custody Clinics and Divorce Clinics at the Bar Association. Custody Clinics are held monthly. Divorce Clinics are held on an as-needed basis, but usually once or twice a year.

At each clinic, three to five attorneys (including many government lawyers) assist ten to twenty people seeking custody. The petitioners are individuals who are income eligible for free legal services. After a brief presentation, the petitioners complete the forms to file for custody. The pro bono participants circulate among the petitioners to answer questions and review completed forms. Since this is a MidPenn program, lawyers are covered by MidPenn's malpractice insurance.



In 1991, the Bar Association produced a videotape explanation of the custody process for use at the Clinics. In 2005, two government pro bono attorneys Susan Hensel and Doreen McCall and the Pennsylvania Bar Institute created a new Custody Clinic DVD. The DVD was produced at no cost to either MidPenn or the Bar Association. The 15-minute DVD is a great improvement over the out-dated 45-minute video and has been modified for other uses.

This program is under-utilized and should be addressed. As the chart below notes, the



number of people served dropped by 50% in 2007. Last year, we averaged only 6 people per clinic (down from 12 or more). On occasion, we have more attorneys than people needing help.

Divorce Clinics also reduced in number over the years. Prior to 2007, the Divorce Clinics had been offered twice a year and served roughly 12 people at each clinic. Now, the clinics are offered only once a year and less than 10 people attend each clinic.

Many of these folks may be using the Self help Center (discussed below). However, we could better use the open Clinic slots to assist people who are unable to navigate the Self Help Center.

2) Bankruptcy Roster Project

At the March 2003 Bar Association Bankruptcy Law Section meeting, newly-appointed Federal Bankruptcy Judge Mary France noted that the Court is often faced with the problem of pro se debtors whose cases are too complex to be administered fairly and effectively without an attorney.

We responded to that need by launching a new Bankruptcy Roster Project. The Project involved recruiting bankruptcy attorneys who are willing to assist pro se petitioners when contacted by Judge France. The Project was designed with the strategic understanding that Judge France would contact lawyers directly; thus, making case acceptance more likely. Since this is not a MidPenn program, lawyers are not covered by MidPenn's malpractice insurance.

3) Lost Boys Project – inactive project

The Bar Association launched the Lost Boys Project to address the unmet legal needs of Sudanese refugees as they attempt to start a new life in central Pennsylvania. The refugees are referred to as the “Lost Boys” because they are orphans. Their parents were killed in the civil war. After spending years in refugee camps, the US accepted 6,000 Lost Boys.

The local United Way is working with a group of individuals assisting in the resettlement of 40 Lost Boys. The resettlement issues are complicated and at times overwhelming. In the summer of 2003, the United Way approached the Bar Association to help recruit a group of attorneys who are willing to be "on call" to assist the boys as they encounter various legal issues from time to time. The legal issues confronting the youth are varied including traffic citations, car accidents, apartment leases, immigration issues, and local taxes. Since this is not a MidPenn program, participants are not covered by MidPenn’s malpractice insurance. As the Lost Boys have better assimilated to our culture and legal requirements over the years, we rarely receive requests and the project is inactive.

4) Paralegal Pro Bono Partnership – inactive project

At a July 22, 2003 meeting, the Public Service Committee discussed the need for paralegal support at MidPenn Legal Services. At the time, MidPenn had only two attorneys and one paralegal to serve all of Dauphin County. At the meeting, the Central Pennsylvania Paralegal Association Chair Cathy Kohr volunteered to recruit paralegals to help.

Paralegals quickly responded to Cathy’s call for help. The Pro Bono Program held two training sessions -- one in late August and another in early September. At the training, the volunteers learned how to help MidPenn obtain additional information from prospective clients. The paralegals were given a three-page checklist to use when interviewing the person seeking help.

The paralegals interviewed roughly 100 prospective clients per year. Thus, the paralegal pro bono effort freed up legal services staff time that would otherwise be used for interviewing prospective clients. Thankfully MidPenn was able to rebuild their staff and after about three years no longer needed the paralegal’s assistance. These paralegals stand ready to serve should MidPenn request their help in the future.

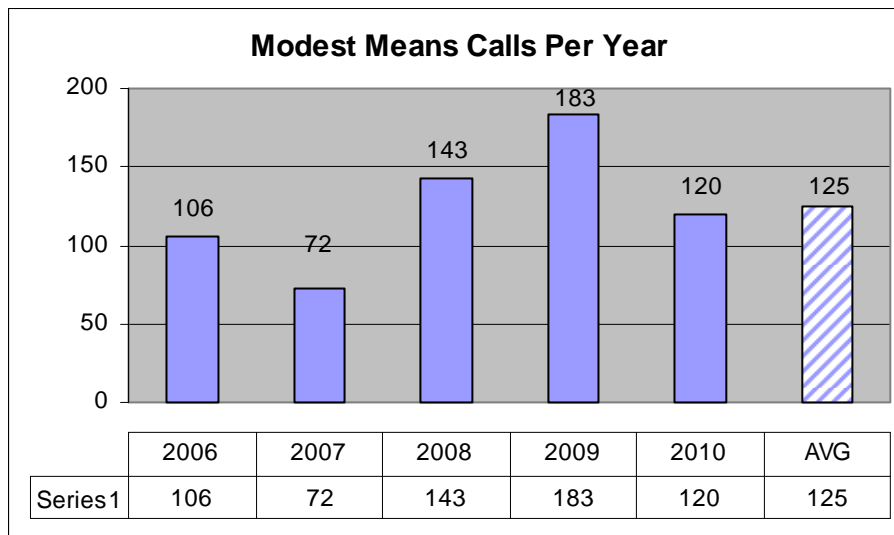
5) Pro Bono Mediation

In 2004, the Bar Association added a new mediation program to support MidPenn Legal Services and pro bono attorneys as they try to resolve disputes more quickly and effectively. The Bar Association Civil Dispute Resolution Program (CDRP) offers mediation services to help resolve disputes without costly and time-consuming litigation. CDRP-approved attorneys are available free of charge to assist pro bono and/or legal services attorneys in resolving matters – especially custody cases. This program is under-utilized. We welcome suggestions to help us better promote this program.

6) Modest Means Panel

Many people have no access to justice. A caller may be slightly over-income, and thus ineligible for free legal aid. Yet, the caller is unable to afford the prevailing rate for private attorneys (roughly \$100 to \$300/hour). In February 2004, we announced a new program, the Modest Means Panel, as an effort to bridge that gap.

Attorneys participating in the Modest Means Panel agree to charge no more than \$50 per hour for these cases. However, the client must provide a \$500 retainer to ensure that the attorney is paid (and does not drop out of the program). As an incentive to encourage attorneys to register, the Bar Association waives the annual Lawyer Referral Service registration fee of \$95 for all attorneys who register for the Modest Means Panel.



The Bar Association refers roughly 125 callers per year to members of the Modest Means Panel. The noticeable drop from 2009 to 2010 in the chart above may be due to the attorney survey feedback we received and my renewed emphasis on the \$500 retainer. Many callers can not afford the \$500 retainer. However, without the retainer, many attorneys report being “stiffed” by Modest Means clients.

7) Virtual Clinic Project – inactive project

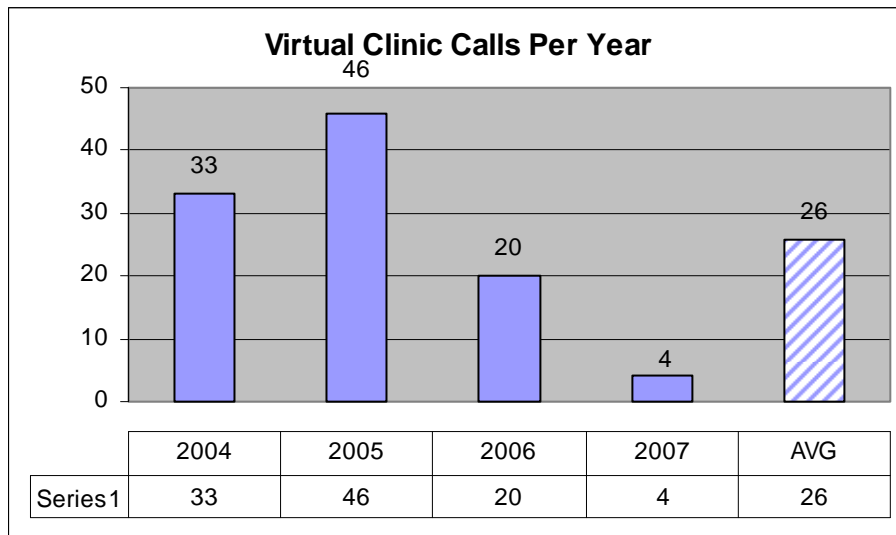
In December 2003, we helped to facilitate a meeting hosted by the Pennsylvania Bar Association (PBA) to discuss pro bono opportunities appropriate for Office of General Counsel (OGC). After follow-up discussions with MidPenn, OGC, PBA, Pennsylvania Legal Aid Network (PLAN) and IOLTA, a “Virtual Clinic Project” was designed. The project is “virtual” in the sense that there is no physical legal clinic location for people to go to for needed legal advice. It is a virtual clinic in the sense that:

- Intake and screening are done via telephone;
- The volunteer OGC attorney offers assistance via the telephone;
- Resources available to the attorney are on the web; and
- The actual referral is made via email.

MidPenn staff screened calls to assure appropriateness of the referral and the Caller’s financial eligibility. For Callers with legal needs, who cannot be assisted by MidPenn due to priority limitations, staffing reductions and/or limited funding, MidPenn staff gathered information from the Caller and forwarded the information to the next OGC attorney. The OGC attorney then called the Caller and either offered some brief advice or referred the Caller for further services. Referrals could be made to MidPenn, the Lawyer Referral Service, or to other OGC attorneys who have agreed to undertake case representation.

The OGC attorneys attended a one-hour training and each made up to five calls per year. The training included information on the on www.probono.net/pa (a 24/7 resource for attorneys handling pro bono cases) and www.PaLawHelp (an online guide of civil legal resources geared to the client community).

In four years, OGC pro bono attorneys assisted 103 callers. Each of these low-income individuals would have been turned away if this pro bono program did not exist. This program is inactive because MidPenn was no longer able to facilitate the calls.



8) Educational Advocacy Project – inactive project

This Educational Advocacy Project’s goal was to help parents and caregivers better understand their children’s right to an appropriate education. The project used pro bono attorneys to make presentations to audiences of approximately twenty parents and/or caregivers at nonprofit organizations throughout the area. Presenters encouraged audience members with specific questions to call Legal Services.

The logic behind this project can be outlined as follows:

1. Children in poverty, stress and/or crisis often end up with developmental or emotional disabilities.
2. Disabled children are entitled to specialized educational services. However, the children often do not receive these services because:
 - Parents/caregivers might not be aware of the services,
 - Children move from school to school, and/or

- The services are expensive for schools to provide.

3. Specialized educational services usually result in improved education.

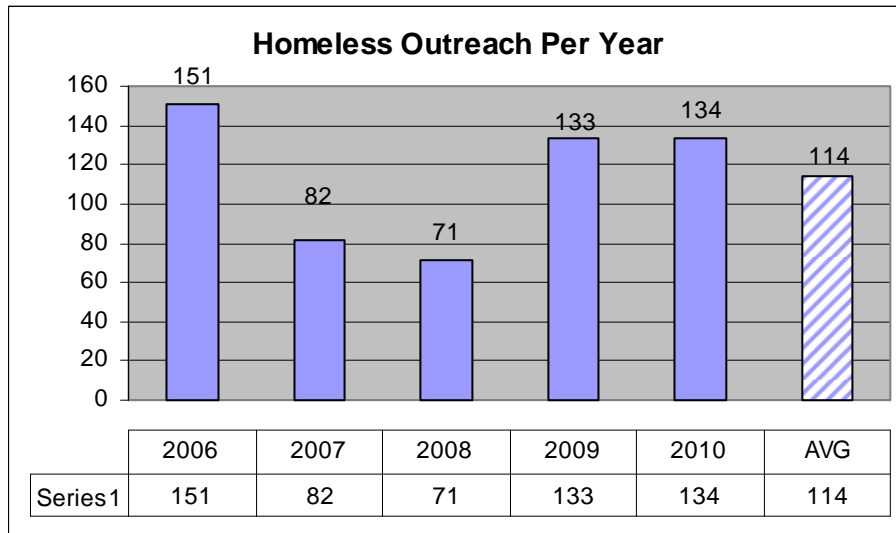
Since the initial CLE training on January 11, 2005, fifteen pro bono attorneys made eleven presentations to community groups reaching a total of 220 parents/caregivers. Since this is not a MidPenn program, lawyers were not covered by MidPenn’s malpractice insurance. This project is inactive because the lead attorney moved out of the area.

9) Homeless Outreach Project

Through this project, we send teams of three to five attorneys to three area soup kitchens to staff "Legal Information" tables for roughly two hours once a month. The participating attorneys

- Provide legal information printed from www.PaLawHelp.org, and
- Refer folks with legal issues (that can't be clarified with information and/or a phone call at the shelter) to MidPenn Legal Services.

The CLE "Legal Issues Facing the Homeless" was held on January 31, 2006. Currently, we have roughly 70 attorneys, paralegals and law students who participate in this outreach and reach roughly 114 people per year. Since this is not a MidPenn program, participants are not covered by MidPenn’s malpractice insurance.



10) Nonprofit Initiative

In September 2006, the Association Board approved the Nonprofit Initiative to provide free legal assistance to eligible nonprofit organizations by matching them with pro bono counsel. The project is modeled after a similar project in Philadelphia. The Nonprofit Initiative is designed to provide assistance to Dauphin County nonprofit organizations that:

- Have a charitable or community purpose,
- Have a three-year track record of operations, and

- Need free legal assistance to avoid impairing their programs and/or help further their mission and programming.

Organizations that serve low-income communities, are involved in community economic development, or serve low-income, indigent, or disadvantaged persons receive priority.

A Steering Committee screens requests from organizations to ensure that the group will be a reliable client. Since this is not a MidPenn Legal Services program, attorneys are not covered by MidPenn's malpractice insurance.

Since the first application was approved in February 2007, the Nonprofit Initiative Review Committee has approved 16 requests for assistance from 15 groups. Sixteen pro bono attorneys from eight firms have participated. Eleven matters are completed. A total of 211 pro bono hours have been donated to date.

11) Courthouse Self Help Center

The Public Services Committee worked with MidPenn and the courthouse staff to help launch the Self Help Center located in the Law Library on the 4th floor of the Courthouse. The Center opened on November 1, 2006.

At the Self Help Center pro se litigants can purchase a packet of forms and instructions for:

- Divorce when parties have been separated for two years and no property needs to be divided. (\$5)
- Custody, partial custody, or visitation. (\$5)
- Modification of an existing custody order. (\$5)
- Divorce where the parties consent and no property needs to be divided. (\$5)
- In forma pauperis petition for use when you believe you cannot afford to pay the filing fees. (\$5)
- Driver's license suspension appeal. (\$5)
- Name change petition. (\$5)

The information packets are also available at no charge on the Court's website www.dauphincounty.org. Roughly 100 packets are purchased per month and the web site receives an average of 1,000 unique hits per month.

12) Pro Bono Guardian Monitors

On April 4, 2007, Judge Todd Hoover led a Pro Bono Guardian Monitors Project CLE to teach lawyers about guardianship law and interacting with incapacitated people and/or the elderly. These Pro Bono Monitors have become the court's "eyes and ears" to assure that incapacitated persons with a court-appointed guardian are not being personally or financially mistreated. Barbara Lundgren, the Deputy Court Administrator for Orphans Court, manages the program and provides the Monitors with interview checklists and step-by-step instructions.

Once a year, the assigned Monitor will visit the incapacitated person and guardian, review records, and submit a report to the court on the forms provided. Currently, there are roughly 50 active Monitors. Since this is not a MidPenn program, Monitors are not covered by MidPenn's malpractice insurance.

13) Special Requests

Some special pro bono projects come from special requests and are not ongoing needs but arise fairly quickly. In 2008, members responded to a national request for Election Protection Assistance in ensuring fair and open elections. In 2009, members participated in the statewide Get Help Now pro bono program by staffing our "Help Center" every Tuesday and Thursday for ten weeks over the summer. Also due to the recent economic downturn, MidPenn Legal Services asked for special assistance with the increased Unemployment Compensation hearings.

14) Custody Mentorship Program

MidPenn is often looking for pro bono attorneys to assist low-income clients with custody issues. Unfortunately, many attorneys are reluctant to take these custody cases. In particular, attorneys who do not normally practice family law are understandably uncomfortable and ethically restricted from taking a case in an unfamiliar area of law. For example, volunteers from Sci-Tech High School surveyed attorneys and recorded several comments like these:

- *I was signed up to accept a pro bono case, but none arose in the **area of law** I have experience handling.*
- *My **area of practice** does not correspond well with the needs of the clients of this program.*
- *I have not taken a case because the **type of law I practice** is not applicable to the type of cases handled by this pro bono program.*

In response to these concerns, we decided to try an experimental **Custody Mentorship Program**. The Program began with a May 26, 2009 Lunch & Learn CLE for attorneys who are willing to take two pro bono custody cases. The Program's goals are to (1) encourage and equip non-family law attorneys to take pro bono custody conciliation cases, and (2) encourage and empower pro bono clients to resolve their custody disputes without litigation before a judge.

As part of the Program, we recruited family law attorneys (Mentors) to mentor inexperienced pro bono attorneys (Mentee) for pro bono credit. A Mentor agrees to:

1. Sit in on Mentee's first interview with a pro bono custody client and the conciliation.
2. Be a resource for the Mentee, via phone, as settlement discussions proceed.
3. Represent the pro bono client at Hearing if parties do not settle at Conciliation, mediation, or shortly thereafter. (We estimated that this might occur in roughly 20% of cases.)

Mentee agrees to:

1. Attend May 26th Lunch & Learn (or view video after that date).
2. For first case
 - Represent pro bono client at Conciliation (with Mentor present).
 - If case does not settle, attempt to negotiate settlement.
 - If negotiations are not fruitful, ask client and opposing party to participate in a Pro Bono Mediation.
 - If case still does not settle, prepare and file a Praecipe to Withdraw with Mentor listed as new attorney.
3. Represent second client on your own.

- Of course, MidPenn Legal Services staff and the Mentor are always available for assistance along the way.
- Mentee is not obligated to represent client at hearing if second case does not settle.

Since Kandice Giurintano and Mark Silliker served as our first custody mentor team in the spring of 2009, our Custody Mentorship Program has successfully assisted 27 families. These clients would not be served but for this new program. Mark Silliker has been particularly generous in donating his time to serve as a Mentor.

Furthermore, ten of these Mentees have volunteered for more than two cases. One attorney took eight cases, several took 4 or 5, and the others have expressed a willingness to take more cases on an ongoing basis.

15) Wills for Heroes

Across the country, pro bono attorneys at Wills for Heroes events provide free basic estate planning documents (e.g., wills, living wills, and powers of attorney) to first responders (e.g., firefighters, police officers, and emergency personnel). The first Wills for Heroes event in Dauphin County took place in April 2010. Pro bono attorneys, law students, paralegals, and notaries spent the day at Widener Law School assisting 64 first responders.

In advance of the Wills for Heroes event, first responders download and complete a questionnaire which helps them think through a number of important decisions and discuss them with their spouse, partner, or other trusted friends. The first responder is assigned to an attorney who reviews the questionnaire and inputs the information from the questionnaire into laptops loaded with the document assembly software. The attorney reviews the draft estate planning documents with the first responder to insure that each person understands and agrees to what they are executing. Once finalized, the documents are signed, witnessed and notarized.

A second Wills for Heroes event was held in November 2010. Plans are underway to offer the Wills for Heroes event once each semester. Since this is not a MidPenn Legal Services program, pro bono attorneys are not covered by MidPenn's malpractice insurance.

16) Credit Card Defense

Like many legal aid offices around the country, MidPenn has faced a large increase in requests for assistance from low-income people being sued for a credit card debt. Thus, on August 24, 2010, MidPenn Staff Attorney Steve Krone and private attorney Joseph K. Goldberg led a pro bono CLE on the defense of credit card collection cases for low-income defendants. Thanks to the Bar Foundation's support, attorneys were able to attend at no charge if they were willing to take two cases.

From the roughly 30 CLE attendees, we have a list of 13 pro bono attorneys to assist MidPenn on credit card cases. To date, five of these attorneys have taken cases and more will be on the way.

17) Pennsylvania Immigration Resource Center (PIRC)

PIRC Executive Director Angela A. Eveler asked for our assistance in recruiting pro bono attorneys in Dauphin County to assist with their new Central Pennsylvania Immigration Project. In particular, PIRC is seeking pro bono attorneys to assist immigrant survivors of domestic violence and human trafficking.

On August 30, 2010, we partnered with PIRC to provide a free CLE as an overview of what legal relief is available to new arrivals in the United States who find themselves victimized by abusive spouses or human traffickers, and other types of violence. The training identified and briefly explained the typical forms of relief available to this population, including relief under the Violence Against Women's Act (VAWA), U Visas and T Visas.

PIRC would like to partner with us to host future trainings on this topic. This will provide Dauphin County Bar Association members with another pro bono option to consider for their pro bono participation.

D. Summary

A total of 426 individual attorneys, paralegals, law students and firms participated in the Pro Bono Program last year. Each month, an average of 35 participants take a new case, make a donation in lieu of service, staff a clinic or otherwise participate in a special project. In 2010, a total of 502 people were served by the pro bono program.