

Maintaining Your License - Texas Lawyers Care - Civil Legal Services to the Poor in Texas: Executive Summary

A Status Report Presented by the State Bar of Texas
to the Supreme Court of Texas
January 14, 2000

Executive Summary

In response to the request of the Supreme Court of Texas, the State Bar of Texas (State Bar) provides the following summary of a report on the issue of civil legal services to the poor. Funding, support by Texas attorneys, and the State Bar's capacity to build resources are critical factors in this legal services issue. The legal profession in Texas has been and remains actively involved in developing these resources through varied and innovative pro bono approaches.

With the creation of the Legal Services Corporation (LSC) in 1974, the United States Congress and President Nixon instituted the federal government's commitment to access to justice by the poor in every part of the country. LSC is a federally funded nonprofit corporation that administers federal funding for legal services to the poor. Despite several challenges to that commitment over the years, the federal government is still a major partner in the legal services to the poor delivery system in Texas and nationally.

The State Bar leadership recognized early on that federal funding for LSC would not keep up with the expanding need for legal services by the poor and that the efforts of LSC programs would have to be supplemented and supported by a thriving volunteer component. In response, the State Bar has created a model that continues to support the provision of quality legal services to the poor. Over the years, this model has evolved as the State Bar continues to identify strategies for improving the provision of legal services to the poor. A timeline of critical State Bar initiatives is attached.

When the newly elected Congressional leadership targeted LSC funding for elimination in 1995, the American Bar Association (ABA) called upon all state and local bar associations to join the ABA in educating Congressional delegates on the importance of continued support of LSC. The State Bar quickly responded to the call and has maintained its Congressional education efforts since.

Even though those efforts forestalled the elimination of funding for LSC, Congress did significantly reduce its funding in the 1996 budget. At about the same time, plummeting interest rates decreased Interest on Lawyers Trust Accounts (IOLTA) revenues by about half. IOLTA and LSC funds available in Texas peaked in 1994 at just more than \$39 million. By 1996 they had dropped by almost \$11 million.

Attempting to close this gap, the State Bar went to the Texas legislature in 1997 seeking a civil court filing fee add-on to generate revenues for legal services to the poor to be distributed by the Texas Equal Access to Justice Foundation. The resulting Basic Civil Legal Services (BCLS) fund generates \$3 to 4 million a year. In 1999, the State Bar successfully sought legislative authorization for "And Justice For All" license plates that also will generate revenues for legal services for poor Texans. If 10,000 plates are sold and renewed for three years, \$1 million will be generated for the BCLS fund.

[Back to Top](#)

Despite the addition of BCLS funds, current funding falls far short of the peak 1994 funding level. Funding from LSC, IOLTA, and BCLS will provide less than \$33 million in the current fiscal year, more than \$6 million less than 1994 funding. When accounting for inflation, it would take \$44 million to match the 1994 funding level.

In addition to seeking additional funds for legal services providers, the State Bar has increased its

commitment of resources to provide critical support for providers of legal services. This year 2.8% of the entire State Bar budget (\$23,359,450) is dedicated to the needs of low-income Texans, as opposed to 1.6% in 1996. Among state bars, this level of commitment ranks second only to the Michigan Bar.

In the early 1980s, LSC regulations were amended to require that programs receiving these federal funds apply a significant percentage of their LSC revenues to the involvement of private attorneys in the provision of legal services to low-income Americans. (This requirement of private attorney involvement was thereafter referred to as "PAI.") Since that time, LSC-funded programs and local and state bar associations around the country have forged partnerships that have been critical to the success of PAI efforts as well as to the survival of federal funding of LSC.

In 1982 the Texas LSC programs collaborated with the State Bar to create Texas Lawyers Care to assist the LSC programs in the activation of pro bono projects around the state. At that time, only twelve pro bono projects existed in Texas. By 1990, that number had grown to 64. Currently more than 100 pro bono projects operate statewide. Many of these programs are affiliated with an LSC program, either as an in-house project or as a separate program contracting with the LSC program. Some are completely independent of LSC, usually focusing on a particular area of need or client group.

In 1992 the State Bar Board of Directors adopted an aspirational pro bono policy calling on each Texas attorney to voluntarily provide 50 hours of pro bono legal services to the poor each year. At the time the policy was adopted, approximately 10,470 Texas attorneys were providing services through one of the organized pro bono programs. In 1999 that number had increased by 39% to 17,100. During the same time period, active membership in the State Bar increased by 15%. The total number of enrolled volunteers in 1999 is equivalent to 27% of the active bar membership.

[Back to Top](#)

The pro bono policy also established an annual voluntary pro bono reporting process. The first reporting form was sent to all State Bar members in a separate mailing in October 1992. Of the 12,901 attorneys (24%) who returned the 92 reporting form, 74% indicated that they were doing some pro bono legal services to the poor. The median number of hours reported was 25, and the total was 555,000 hours. The highest response rate came in 1993-1994 when 43% of the membership reported a median of 20 hours and a total of 726,000 hours.

In 1998 the reporting form was expanded to include two categories of public service. In the "donated legal services" category, attorneys can report reduced fee legal services to the poor as well as legal services donated to a non-profit organization that does not directly benefit the poor. The "community services" category allows attorneys to report the non-legal volunteer services they provide to the public.

The overall response rate in 1999, including all three categories, was 23% or 15,040 attorneys. 11,214 attorneys (17.3%) responded to the first category of "legal services to the poor" and reported a median of 20 hours per attorney and a total of 448,560 hours.

It is impossible to accurately calculate the pro bono work currently being done because much pro bono work is not being reported and because many pro bono efforts are done outside of an organized program. While the response rate can and will be increased, a statistically valid survey would more clearly demonstrate actual attorney pro bono service.

The response rate does not justify extrapolating data for the entire membership. However, there are other indicators that demonstrate the extraordinary commitment of the private bar in Texas to access to justice by the poor.

[Back to Top](#)

For example, 100 local or speciality bar associations sponsor one or more pro bono programs. The Houston Volunteer Lawyers Program, the pro bono project of the Houston Bar Association (HBA), estimates that HBA members provided 15,000 hours of pro bono legal services to the poor in 1999. Using the median hourly rate for Texas attorneys (\$150), the value of these services is \$2,225,000.

In 1984 the El Paso Bar Association and the El Paso District Judges determined there was unmet need in their community and identified a solution. The judges ordered each attorney to do two uncontested divorces each year. In 1999, more than 900 of these cases were handled by the El Paso Bar.

State Bar sections have also increased their efforts, creating projects to increase member participation and to support staff providers of legal services to poor Texans. They have identified appropriate pro bono opportunities for transactional attorneys, such as contract for deed and title work for South Texas "colonias" residents.

The State Bar also has played a key role in the development of the PAI effort in Texas and continues to play a major role in its ongoing success. Additionally, the State Bar long has been a national leader among state bar associations in its support of pro bono and staff-based legal services to the poor. Other bars look to Texas Lawyers Care as a model for pro bono support.

The State Bar will continue to identify strategies for increasing funding available to provide legal services to low-income Texans. The State Bar also will continue its efforts to promote pro bono participation by all Texas attorneys under the terms of the 50 hour aspirational pro bono policy. The State Bar recognizes that member response to annual reporting is insufficient and will take steps to boost the response rate considerably.

The information provided in this executive summary reflects the contents of a full report to be submitted to the Supreme Court of Texas for its hearing on civil legal services to the poor scheduled for January 27, 2000. Included in the full report will be an itemization of State Bar pro bono activities and a summary of efforts made by various segments of bar membership. Key documents and information will be available in the report appendices.

[Back to Top](#)

State Bar of Texas Leadership Initiatives Addressing the Legal Needs of the Poor

Timeline of Initiatives: 1991 - Present

Appendix	Date	State Bar Initiative
Tab N	November 1999	"Justice for All" license plate order form available
Tab M	September 1999	State Bar Board adopts Lawyer Referral and Information Service (LRIS) rules changes proposed by Board Legal Services Committee designed to increase participation in LRS and to reduce registration fee for participants who do pro bono
Tab L	June 1999	State Bar Board adopts "Marketing Plan to Increase Pro Bono Legal Services to the Poor"

	May 1999	"Justice for All" license plates approved by Texas Legislature to create additional Basic Civil Legal Services funds.
	January 1999	Resource Development Work Group issues recommendations for increasing resources for legal services to the poor
	Summer 1998	State Bar President creates Resource Development Work Group
Tab K	April 1998	State Bar Board authorizes the creation of the Clearinghouse Referral Line to refer low-income clients to appropriate resources for legal assistance
	April 1998	State Bar Board expands annual reporting to include donated legal services and community services categories in addition to the traditional pro bono legal services to the poor category
Tab J	Summer 1997 May 1997	State Bar Board Committee on Legal Services created Filing Fee Add-on bill signed into law creating BCLS (Basic Civil Legal Services) fund
Tab I	April 1997	State Bar Board adopts Three Year Goals for Legal Services to the Poor in Texas
	Fall 1996	State Bar Board members hold community forums
	September 1996	State Bar Board approves filing fee add-on legislative proposal
Summer 1996	State Bar Board Ad Committee on Legal Services created	
	June 1996	State Bar triples budget of Texas Lawyers Care to support the malpractice liability insurance program and to expand state support services to staff legal services programs
Tab H	April 1996	State Bar Board adopts

Donated Legal Services Plan
 State Bar Board creates
 Special Committee on Legal
 Services to the Poor

Summer 1995 State Bar hosts Texas Legal Services State Planning Summit

September 1995

State Bar submits Administrative Brief to Supreme Court regarding pro bono

Tab G April 1995

State Bar leadership delegation goes to D.C. to educate Congressional delegation on need for LSC funding

Spring 1995 State Bar Board approves Family Violence Resource Project designed to improve and increase training for legal professionals who represent victims of family violence.

Tab F January 1995

State Bar's prosecutor pro bono bill statutorily authorizing all state prosecutors to do pro bono legal services to the poor passes

Tab E May 1993

State Bar Board approves filing fee add-on and government attorney legislative proposals

February 1993

State Bar submits Mandatory Pro Bono Report to legislature as directed by the legislature in the 1991 Sunset bill

Tab D December 1992

First Annual Pro Bono Reporting form sent to Texas Attorneys

October 1992 State Bar Board substantially increases financial support for Texas Lawyers Care department

June 1992

State Bar Board adopts Pro Bono Policy

Tab C May 1992

Task Force Report issued recommending Pro Bono Policy

Tab B	April 1992	State Bar holds "Rationing Justice" public hearings in 15 Texas cities
	September 1991 - February 1992	State Bar Board approves 14 Point Interim Action Plan
Tab A	September 1991 Spring 1991	State Bar President creates Task Force on the Delivery of Legal Services to the Poor