

## **Pro Bono Collaborations and Partnerships: When Law Firms and Legal Departments Serve Together**

Pro Bono Institute (PBI) has more than 25 years of experience working with law firms and legal departments that magnify their pro bono impact through partnerships. This resource reflects the best practices and experiences of our stakeholders. We are pleased to present this guide to successful pro bono collaborations between law firms and legal departments.

### **The Benefits of Collaboration for Law Firms and Legal Departments**

The primary focus of any collaborative partnership is the pro bono work; however, partnerships between law firms and legal departments can benefit both partners, as well as their pro bono clients and the community. Working together can boost overall pro bono participation and magnify the impact on communities through synergies in resources, expertise, and encouragement. In addition, there are benefits to partnerships specific to law firms and legal departments.

For law firms, teaming up with corporate legal departments affords an opportunity to: 1) better understand the culture of those legal departments and the personalities of the departments' in-house lawyers; 2) show the capabilities of the law firm; and 3) develop, solidify, or enhance the relationship between partners through work or events associated with the collaboration. Pro bono-based partnerships can also raise the profile of your law firm pro bono program, internally and externally. As a result, such partnerships can foster pro bono engagement with a wide range of firm lawyers and staff.

These benefits also apply to corporate legal departments. What corporation does not want to build a stronger relationship with their outside counsel, enhance its reputation in the community, and expand its pool of pro bono volunteers? In addition, for legal departments, a law firm partner can provide an array of assistance, including training, administrative support, co-counseling, and more. Partnering with a law firm may expand the opportunities that you offer your attorneys and legal staff, through the law firm's relationships with legal services organizations and added expertise in the areas of legal need.

“The bottom line is that partnerships work. They require a substantial up-front time investment, a leap of faith, and an openness to new ideas and perspectives. Over time, however, that investment reaps untold returns.” – *Esther Lardent, Founder, Pro Bono Institute*

### **CONSIDERATIONS FOR CULTIVATING SUCCESSFUL PARTNERSHIPS**

The reasons to partner on pro bono efforts are many; however, such partnerships come with challenges. By considering the following elements at the start, partners can set their partnership up for success.

## Relationships

- **Familiarity with the Partner’s Pro Bono Program.** Generally, each partner has pre-existing ideas about the other, including incorrect assumptions about each other’s pro bono program infrastructure. This can lead to frustration, disappointment, and ultimately failure when the partnership bites off more than it can chew. In the early stages of the relationship, it is helpful to learn about each other’s pro bono programs. Discussion topics to consider include:
  - How is each program structured?
  - Who is responsible for the program?
  - What resources are available to support the program?
  - Are there any limitations on the program?
  - What is the goal or mission of the program?
  - Who (*e.g.*, first year associates, junior lawyers, senior lawyers, partners, paralegals and staff, etc.) participates in pro bono and may be expected to volunteer?

Talk upfront about infrastructure in terms of resources, personnel, technology, budgets, and supplies, as well as time available to dedicate to the work.

- **Roles, Responsibilities, and Expectations.** Partners may also have pre-existing ideas about how the partnership should operate. Some partners may worry that the other partner will take over the project entirely and others may worry that their partner may not pull their weight. To mitigate these concerns, the partners should clearly define roles, responsibilities, and expectations upfront. Among items to be discussed are leadership, lines of communication (internally and externally), and respective roles. In some cases, partners act as peers in making decisions and providing expertise and training, with all partners operating in parallel, providing mutual support, and pooling resources. In others, the partners may prefer that the most experienced partner take the lead in making decisions or providing expertise and training, at least initially. Partnerships between firms and legal departments may not be equal with regard to assigned roles and responsibility; however, such roles and responsibilities should be at least proportional, based on the resources each has to bear.
- **Ongoing Partner Communications.** There is always a need for regular and candid communication between the partners. It is not sufficient to communicate expectations and shared vision up front; partners should also routinely discuss their progress and any necessary changes to their roles on a regular basis. Prompt communication is also called for after any event that may have significant implications for the partnership.
- **External Communication.** Partners may have different practices regarding what and how they communicate about their pro bono work. Some partners may seek visibility for their pro bono engagement, including in external reports, on their website, and/or in social media, while others may be more circumspect about what they communicate

publicly. Communication protocols will be needed to address several key items, including the following:

- Who will be the point of contact with other partners, such as legal services organizations?
  - Who is authorized to speak to media (and other third parties) and to what extent?
  - How will the partners' mutual relationship be described to third parties?
  - Whether partners are entitled to: (a) advance notice, (b) an opportunity to consult, or (c) veto rights with respect to any external communications related to the partnership by the other partner?
- **Timeline and Scope of Partnership.** The partners should have a plan with respect to the duration and scope of the partnership and how their joint project(s) can be wound down.
  - **Existing Relationship.** Partners should consider whether a pro bono collaboration may negatively impact an existing business relationship between the partners or any of the partners' relationships with third parties. If so, the partners should evaluate whether to proceed, consider how to make adjustments to minimize risk, and establish how they will each proceed in the event that friction arises.
  - **Sustainability.** When the primary point of contact or an involved representative of one of the partners leaves, this can create a challenge. To ensure stability of the partnership, memorialize the work of the partnership internally, maintain updated records of partnership activities and contacts, schedule regular meetings, and encourage multiple representatives from each organization to actively participate in leading the partnership.
  - **Prior Experience.** Some firms or legal departments have unsuccessfully partnered in the past, leaving them hesitant to partner again. When considering a new partnership, be sensitive to the past and learn from the previous mistakes, but do not assume they will be repeated.
  - **Motivation.** Often the driving forces for forming a pro bono-based partnership are to improve your pro bono program and magnify its impact. Understanding and being in alignment regarding the motivations for the partnership is an important consideration.

### **Logistics**

- **Malpractice Insurance.** Each partner is responsible for ensuring that there is the necessary malpractice insurance covering its volunteers, whether through its own policy or through a legal services organization. Although malpractice lawsuits resulting from pro bono legal services are rare, it should not be assumed that in-house lawyers are automatically covered by their employer's malpractice insurance policy. Some in-house departments may ask the law firm to provide malpractice coverage. There are various

options for legal departments to address the risks associated with professional liability concerns.<sup>1</sup>

- **Location.** For in-person opportunities, it is important to select a mutually convenient community to serve. For remote opportunities, it is important to select a project that allows for coordinated efforts using technology. In either format, attention must be given to ensure that proper protections for attorney-client privilege and confidentiality are incorporated into the program.
- **Funding.** Some types of projects require out-of-pocket financial support to cover logistical costs. This may include anything from filing fees to food and beverage costs. Consider funding options for the project and communicate at the start to minimize confusion and manage expectations. For some types of funding, it may be appropriate to consider developing a sponsorship program funded by one or both partners or other community stakeholders.
- **Additional Shared Resources.** The partners should determine who will provide which resources for the benefit of the partnership and its pro bono clients. In addition to staffing, expertise, and funding, these resources may include technology and IT support to hold virtual events, communications support to produce reports or other marketing materials, physical space to hold in-person events, and intellectual property (such as project branding, materials, and contact lists).
- **Multijurisdictional Practice Rules.** Each partner should ensure that their attorney volunteers are licensed to practice in the relevant jurisdiction(s) or are practicing in accordance with an authorization for non-locally licensed registered in-house counsel or out-of-state counsel, and that staff and other volunteers not authorized to practice are appropriately supervised. The partners may work together to form teams to provide adequate supervision.<sup>2</sup>

## **Project Selection**

- **Balancing of Interests and Capabilities.** In selecting a pro bono project, there are several factors to keep in mind: the needs of the community; the expertise of each partner; the interests of each partner's volunteers; and any environmental, social, and governance initiatives, corporate social responsibility priorities, and diversity, equity and inclusion objectives of the partners. Partners should also consider whether the project has a reliable source of clients, adds to each other's programs, and does not undermine existing projects or strain program resources. There can be a lot of momentum and pressure on partners to quickly select a project, but it is worth taking the time necessary

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<sup>1</sup> PBI, through its Corporate Pro Bono (CPBO) project, has a number of resources, including an infographic on [In-House Pro Bono Insurance](#). For more information, contact the CPBO project at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

<sup>2</sup> The CPBO project has a number of resources on multijurisdictional practice rules, including a guide to [Multijurisdictional Practice in the U.S.: In-House Counsel Pro Bono](#). Please note that this document does not purport to provide legal advice as to whether partnerships arrangements would violate jurisdictional practice rules in any particular circumstances. For more information, please contact the CPBO project at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

to choose carefully. If interest in a project wanes, talk with your partner organization(s) about ways to re-invigorate and consider the option of sunseting the project.

- **Conflicts of Interest.** Although legal departments may not have the same concerns with traditional client conflicts as law firms, the partners should develop criteria up-front to avoid conflicts and discuss methods of addressing them when they do arise. Also, be mindful that positional conflicts based on a partner's industry or service sector may come into play. Each partner should conduct its own conflict checks as required under the Rules of Professional Conduct.
- **Training.** Volunteers have a duty of competence under the Rules of Professional Conduct. Partners may work together to provide any necessary training as part of the pro bono engagement or in advance of serving pro bono clients, to ensure that the volunteers are competent to serve the clients.

## **PARTNERSHIP MODELS**

Once you have decided to form a partnership, it's time to determine which partnership model is the best fit, as partnerships can vary in structure, duration, and scope of involvement depending upon the goals of the partnership.

### **Scope of Partnership:**

While the scope of a partnership can vary, some examples of ways law firms and legal departments partner include:

- Collaborating on a specific pro bono matter or project; a defined legal issue of shared interest (*e.g.*, asylum cases), a shared location, or an identified client community (*e.g.*, people experiencing homelessness).
- Collaborating on multiple pro bono efforts, encompassing a variety of projects, legal issues, or client communities.
- One partner aligns all or a significant portion of its pro bono program with the work of the partnership. The other partner(s) may have a broader pro bono program that encompasses other unrelated projects and partnerships.

### **Partnership Structures:**

The structure of a partnership can also vary and can involve more than one partner. Three common partnership structures are:

- 1) **Bilateral Partnerships:** between one firm and one legal department;
- 2) **Trilateral Partnerships:** between one firm, one legal department, and a public interest or legal services organization;
- 3) **Multilateral Partnerships:** larger collaborations that involve multiple firms, departments, and/or public interest or legal services organizations.

## **Partnership Models**

Below is an overview of collaborative partnership models that have been successful. This is a non-exhaustive list and includes clinics, telephone hotlines and virtual intake, co-counsel, signature projects, general counsel, research and writing, mega-partnerships to tackle systemic challenges, and secondments.

### **A. Clinics**

Clinics are a popular option for new pro bono endeavors due to the often time-limited nature of the work for volunteers. Clinics allow volunteers to assist clients during a designated brief amount of time on specific matters. Law firms and legal departments, often working in partnership with a legal services organization, may partner either to staff clinics on a one-off basis, or establish ongoing, regular, clinics.

There are many variations within the clinic model, including recurring advice-only clinics, clinics with continuing assistance, application- or document-assistance clinics, etc.

Partners need to have a clear and realistic vision about staffing and the roles each partner will assume. Some clinics offer training by one of the partners, others provide co-counseling opportunities for volunteers, and still others team volunteers with colleagues from their own organization. Clinics have the potential to allow broad volunteer participation for a limited and reasonable number of service hours contributed by each volunteer.

### **B. Telephone Hotlines & Virtual Intake**

Like brief advice clinics, providing pro bono services through staffing of telephone hotlines or through a virtual intake clinic is an attractive opportunity due to the defined, limited-time commitment and ability to assist numerous clients with a specific matter. They can also engage volunteers in multiple locations and volunteers who work remotely. Telephone hotlines have the added benefit of being inherently distance-friendly and relying solely on ubiquitous technology to connect volunteers and clients.

### **C. Co-Counsel (Longer-Term Representation)**

Another model for pro bono-based partnerships is co-counseling on longer-term matters, which allows in-house and law firm attorneys to work side-by-side over a period of time to assist a client. Such an arrangement may be implemented for transactional matters or litigation matters, and may involve a team from both partners, collaborating over an extended timeframe, although individual volunteers may take on a limited task.

### **D. Signature Projects**

A signature project is an ongoing, department-wide and firm-wide pro bono initiative, which harnesses substantial resources and volunteer time to address a major legal need. The key elements of a signature project are focus and commitment. The partners seek to achieve greater impact by focusing on a single theme, issue, client group, or community.

A signature project could entail a robust partnership with a particular legal services organization, the founding of a new pro bono program, or even the development of a platform or tool to support legal services.<sup>3</sup>

### **E. General Counsel**

Law firms and legal departments may partner to serve as outside general counsel for one or more clients, such as a nonprofit organization. Serving as joint general counsel allows the partners to establish an ongoing relationship with a client and each other while providing a wide range of legal services, potentially affording a variety of opportunities to assist in diverse disciplines.

### **F. Research and Writing**

Another option for a pro bono-related partnership project between one or more law firms and legal departments is a legal research and writing project. Volunteers from both organizations contribute to the task, which can be tremendously impactful. While some volunteers may prefer to interact with a specific client, research and writing projects have many benefits as volunteers can assist from any location, multijurisdictional practice issues are not a concern, and administrative burdens and expenses are typically minimal.

### **G. Mega-Partnerships to Tackle Systemic Challenges**

Partnerships between law firms and legal departments focused on solving big, persistent societal problems are fewer in number, but the concept, particularly as a part of a larger collaboration, has potential and is gaining momentum. This type of engagement involves an expansive collaboration directed at addressing a critical legal need that is longstanding, persistent, and resistant to satisfying through the “usual” approaches, whatever they may be. For example, in the area of housing, a firm and a legal department could work together to provide a more holistic suite of services, including representing clients in eviction proceedings, advocating for legal changes, such as laws that permit sealing of eviction records (recognizing such records interfere with the ability to obtaining replacement housing), and advancing affordable housing initiatives.

These efforts are by nature designed to fit the issue, and there is no “typical” model. Depending upon the legal issue and the partners, the partnership may incorporate several of the models previously discussed, such as research and writing and clinics, as well as impact litigation and policy advocacy.

### **H. Secondment**

Sharing an employee with a partner to focus on a pro bono effort can be a unique way to kick-start a pro bono-related partnership or to deepen an existing partnership. The seconded attorney may work on their host organization’s efforts to put a pro bono program in place, to start a new project, or to serve as a training and support resource for volunteers providing pro bono legal services. Gaining unique insight into the partner organization, the seconded attorney may provide an excellent foundation for communications and lasting partnership success. PBI is aware of

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<sup>3</sup> PBI has several resources on signature projects. For more information, contact the Law Firm Pro Bono Project staff at [lawfirm@probonoinst.org](mailto:lawfirm@probonoinst.org) or the CPBO staff at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

several law firm attorneys who have been seconded on a part-time or full-time basis to support legal departments in the initial stages of establishing their own pro bono programs.

### **Conclusion**

There is no one “right” way to partner. Partnerships come in many forms to best serve the needs of the clients and of the partners themselves. We hope that the wide variety of models and considerations discussed above will inspire the creation of many more successful partnerships to come.

As always, Law Firm Pro Bono Project and CPBO staff are available to assist in evaluating which model to select for your partnership based on your goals, and to discuss examples of partnerships following the above models. For assistance, please contact Law Firm Pro Bono Project staff at [lawfirm@probonoinst.org](mailto:lawfirm@probonoinst.org) or CPBO staff at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

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