

The History of Pro Bono in Virginia

Lainie Singerman
Blankingship & Keith, P.C.
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Lawyers in Virginia historically performed pro bono work on an individual, ad hoc basis. However, today many attorneys who perform pro bono work do so in association with a bar organization, clinic, legal aid organization, or another program. Legal aid organizations emerged on a large scale after 1964, as part of President Lyndon Johnson's War on Poverty. Before this, any organized delivery of free legal services tended to occur through local bar associations. In Virginia today, entities as diverse as law firms, bar associations, and law schools have joined legal aid organizations in providing free legal services to the poor in innovative, new ways.

I. Before the War on Poverty

Prior to the 1960s, the legal needs of the poor were addressed by lawyers or voluntary associations on a local level without coordination on the state or national levels. As early as 1906, the Associated Charities of Richmond (the forerunner to the Family Service Society) had a Legal Department "to enforce the laws for the protection of women and children."¹ Local bar associations also maintained legal aid programs, but these were all-volunteer and only provided "spotty" coverage for indigent people's legal needs.² The typical model for local bar association programs involved volunteer lawyers from the community staffing a central office in the courthouse or elsewhere where poor people could come and receive advice. This model tended to emerge only in densely populated jurisdictions where a high volume of low-income people were likely to encounter information about the availability of legal aid services; this was the

¹ Mary Frances Shelburne, A Brief History of the Family Service Society of Richmond, Virginia, WILLIAM & MARY, 1932, ret. 14 Dec. 2017, <https://digitalarchive.wm.edu/handle/10288/18033>.

² Thomas A. Edmonds, "Reflections on the History of Legal Aid in Virginia," VIRGINIA LAWYER MAGAZINE, Dec. 2006, ret. 18 Jul. 2017, http://www.vsb.org/docs/valawyer magazine/v11206_history-legal-aid.pdf.

exception, not the rule, in Virginia until relatively recent demographic changes.³ A formal legal relationship involving legal representation formed only if the lawyer decided to take the supplicant's case, but representation was not guaranteed in this model of legal services provision.⁴

Before the War on Poverty, only one bar association in Virginia is known to have had a formal pro bono program. The Arlington Bar Association has operated a pro bono referral program since the early 1950s. In this program, bar members received pro bono referrals on specific days. Because Arlington was more densely populated than many parts of Virginia in the mid-twentieth century, foot traffic in the courthouse provided enough indigent litigants to make such a program practical. It would not have made sense in most of Virginia, however – one likely reason behind the paucity of formal pro bono programs before the 1960s.

II. 1964-1982: The Beginning of Organized Civil Legal Help for the Poor

The modern history of pro bono in Virginia began in the 1960s with President Johnson's War on Poverty. The War on Poverty pioneered many of the most iconic social welfare programs of the last half century, including food stamps, Medicare, Medicaid, Job Corps, and the not-for-profit provision of legal services for the poor.⁵ Lewis F. Powell, Jr., in his role as president of the American Bar Association, led that organization in successfully lobbying for a steady and reliable stream of federal funding for legal aid, which allowed legal services organizations to expand and spread in Virginia and elsewhere into the 1970s.⁶ Thanks to funding from the Office of Economic Opportunity, established in 1964, at least seven legal services organizations in Virginia were founded in the late 1960s and early 1970s.

³ George W. Dodge, Esq., "A Brief History of the Arlington County Bar Association," ARLINGTON COUNTY BAR ASS'N, ret. 17 Feb. 2018, <https://www.arlingtonbar.org/history.html>; Alissa Hudson phone interview.

⁴ Id.

⁵ Dylan Matthews, "Everything You Need to Know About the War on Poverty," The Washington Post, 8 Jan 2014, accessed 18 Jul 2017, https://www.washingtonpost.com/news/wonk/wp/2014/01/08/everything-you-need-to-know-about-the-war-on-poverty/?utm_term=.136950f5bf50.

⁶ Shelburne, *supra* at fn. 1.

In 1966, the Legal Aid Society of Eastern Virginia was founded.⁷ Today, this organization serves Norfolk, Virginia Beach, Hampton, Williamsburg, and Belle Haven.⁸ A few months later, the Legal Aid Society of the Roanoke Valley followed.⁹ The forerunner of the Legal Aid Justice Center, the Charlottesville-Albemarle Legal Aid Society, was founded the next year, in 1967.¹⁰ In 1971, two organizations were born in Richmond: the Neighborhood Legal Aid Society and the Metropolitan Richmond Legal Aid Society.¹¹ A decade later, in 1981, these two groups merged to form the Central Virginia Legal Aid Society.¹² 1972 saw the establishment of the Southwest Virginia Legal Aid Society and the Legal Aid Society of Greater Lynchburg.¹³ In 1973, the Fredericksburg Area Legal Aid Society formed; this organization later became Rappahannock Legal Services and is now called Legal Aid Works.¹⁴ The Virginia Legal Aid Society, which serves Southside Virginia from Patrick County in the west to Suffolk in the east, emerged in 1977.¹⁵ The Harrisonburg-Rockingham Legal Aid Society, now called Blue Ridge Legal Services, was also established in that year.¹⁶ Legal Services of Northern Virginia was formed in 1980 by merging several existing legal aid societies, including Fairfax Legal Aid and Arlington Legal Aid.¹⁷

Organized delivery of legal services in Virginia was not a top-down development directed by the Office of Economic Opportunity or Legal Services Corporation, however. The Commonwealth's first legal aid organization, the Legal Aid Society of Eastern Virginia, was

⁷ "Who We Are," LEGAL AID SOC'Y OF EASTERN VIRGINIA, ret. 4 Mar. 2018, <https://www.laseva.org/>.

⁸ Id.

⁹ John Whitfield email, 5 Mar. 2018.

¹⁰ "History," LEGAL AID JUSTICE CENTER, ret. 4 Mar. 2018, <https://www.justice4all.org/who-we-are/history/>.

¹¹ "Our History," CENTRAL VIRGINIA LEGAL AID SOC'Y, ret. 4 Mar. 2018, <http://cvlas.org/about-us/>.

¹² Id.

¹³ "Find your closest legal aid program," VIRGINIA BAR ASS'N, ret. 4 Mar. 2018, http://www.vba.org/page/pro_bono_legalaid; "40 in 40: Lynchburg's Legal Aid Pioneer," VIRGINIA LEGAL AID SOC'Y, 22 Mar. 2017, ret. 4 Mar. 2018, <http://vlas.org/40-in-40-lynchburgs-legal-aid-pioneer/>.

¹⁴ "Our Story," LEGAL AID WORKS, ret. 4 Mar. 2018, <http://www.legalaidworks.org/about/>.

¹⁵ "40 in 40: A Grand Vision," VIRGINIA LEGAL AID SOC'Y, 3 Mar. 2017, ret. 6 Mar. 2018, <http://vlas.org/40-in-40-a-grand-vision/>.

¹⁶ John Whitfield phone interview, 28 Mar. 2017.

¹⁷ "About Us," LEGAL AID JUSTICE CENTER, ret. 11 Jan. 2018, <http://www.lsnv.org/about-us/>.

established at the behest of the Norfolk Bar Association.¹⁸ The Norfolk Bar applied to the OEO for a grant to found what was then called Tidewater Legal Aid and received funding in 1966.¹⁹ Another example of the grassroots nature of legal aid in Virginia is the establishment of what is now the Legal Aid Justice Center (LAJC): this organization's forerunner was founded as a pro bono partnership between University of Virginia law students and local attorneys who recognized unmet legal aids of low income citizens in the area and came together to attempt to meet these needs.²⁰ They formed Charlottesville-Albemarle Legal Aid, which became a formalized legal aid program in 1967.²¹

The establishment of legal services offices in Virginia was met with some resistance around the state. The War on Poverty coincided with the civil rights movement's first major victories and court-ordered integration was deeply unpopular in Virginia. In the context of "massive resistance" to federally-mandated integration, federal funding for legal services was viewed by many as more unwanted federal meddling in local affairs.²² Those opposed to legal services even organized a resistance movement in some places. In Vienna, there was a Committee to Defeat Legal Services.²³ Attorneys who came into communities to establish or staff legal services offices were frequently viewed as left-wing carpetbaggers and resisted by the local bar.

Another reason for local attorneys' resistance to legal aid was concern that lawyers offering free legal services would divert clients who would otherwise pay for services.²⁴ For example, George Hettrick of Hunton and Williams found that it was necessary to assuage this fear among the for-profit legal community in Richmond when his firm established a pro bono

¹⁸ Ray Hartz phone interview, Dec. 2017.

¹⁹ Id.

²⁰ Kimberly Emery phone interview, 2 Jan. 2018.

²¹ "History," LEGAL AID JUSTICE CENTER, ret. 11 Jan. 2018, <https://www.justice4all.org/who-we-are/history/>.

²² Chuck Vasaly phone interview.

²³ Id.

²⁴ George Hettrick phone interview, 5 Jan. 2018.

office on Church Hill.²⁵ Despite initial resistance to legal services, offices proliferated across the Commonwealth and provided aid to countless Virginians who otherwise could not afford a lawyer.

The period from 1964 to 1982 also saw the birth of the first clinical education programs at Virginia law schools. Although the primary motivating factor behind this phenomenon was students' need for real world experience, clinics had the collateral effect of providing legal services to clients who would often otherwise have been unable to afford an attorney.²⁶ The first such program was the Alderson Legal Assistance Program at Washington and Lee School of Law, which was established in 1968 to provide legal services to female inmates at the Alderson Federal Correctional Institution (now the Alderson Federal Prison Camp).²⁷ The second legal clinic in Virginia was organized by John Levy at William and Mary School of Law in 1976.²⁸

III. 1982: Legal Services Funding in Peril

Under President Ronald Reagan, federal funding for the Legal Services Corporation decreased by 25 percent and restrictions were placed on the activities that funding recipients could perform.²⁹ Recipients of federal money from the LSC were now forbidden from prosecuting class action lawsuits and lobbying. This was the first time in the LSC's decade of existence that an American president had slashed its funding. In contrast, President Richard Nixon had enthusiastically signed the bill that created the Legal Services Corporation, the federal

²⁵ Id.

²⁶ David F. Morrill, "Professor Emeritus John Levy Dies at 77," WILLIAM & MARY L. SCHOOL, 10 Apr. 2017, ret. 6 Feb. 2018, <http://law.wm.edu/news/stories/2017/remembering-professor-emeritus-john-levy.php>.

²⁷ Mary Natkin phone interview, 12 Feb. 2018.

²⁸ Morrill, supra fn. 26.

²⁹ Bennett H. Beach, "Law: One More Narrow Escape," TIME MAGAZINE, 23 Nov. 1981, ret. 17 Feb. 2018, <http://content.time.com/time/magazine/article/0,9171,922707,00.html>.

organization that took over funding of legal aid programs around the country.³⁰ He even labeled the war on poverty a “priority.”³¹

When President Reagan dramatically cut the legal services budget, he opened the door to decades of fights in Washington over the legal aid funding, which continues to fluctuate, posing a great obstacle to the delivery of legal services to the poor.³² Under President George H.W. Bush, funding went up again slightly, but under the Republican Congress that came in with President Clinton, legal services received another significant budget cut. In 1996, the U.S. Congress both dramatically reduced funding for legal aid nationwide and also imposed restrictions on the representation that federally-funded legal aid programs could provide for low-income clients.³³ The LSC budget increased slightly under President George W. Bush and peaked at over \$400 million a year under President Obama, though restrictions on recipients’ legal activities remained in place.³⁴ Today, under President Trump, funding for legal services is not a priority and the current administration even proposed completely eliminating its funding from the federal budget.³⁵

Reduction in federal funding for pro bono legal services causes hardship on the local level in Virginia. When federal funding dropped in the early 1980s, for example, Blue Ridge Legal Services had to cut its staff in half.³⁶ This was bad news for the provision of civil legal

³⁰ Tom McCarthy, “Draft of first Trump budget would cut legal aid for millions of poor Americans,” THE GUARDIAN, 21 Feb. 2017, ret. 17 Feb. 2018, <https://www.theguardian.com/us-news/2017/feb/21/trump-draft-budget-legal-aid-low-income>.

³¹ “History,” LEGAL SERVICES CORPORATION, ret. 17 Feb. 2018, <http://www.lsc.gov/about-lsc/who-we-are/history>.

³² Dick Gordon and John Whitfield, “The State of Legal Aid,” THE STORY, 9 Oct. 2012, ret. 8 Mar. 2018, <http://www.thestory.org/stories/2012-10/state-legal-aid>.

³³ Eric Williamson, “How students opened a door for legal aid,” U. VIRGINIA SCHOOL OF LAW, 7 Nov. 2017, ret. 2 Jan. 2018, <https://content.law.virginia.edu/news/201711/how-students-opened-door-legal-aid>.

³⁴ Tony Mauro, “Obama proposes legal services corp. budget increase,” THE BLT: THE BLOG OF LEGAL TIMES, 14 Feb. 2011, ret. 7 Dec. 2017, <http://legaltimes.typepad.com/blt/2011/02/obama-proposes-legal-services-corp-budget-increase.html>.

³⁵ Sharon LaFraniere and Allen Rappoport, “Popular domestic programs face ax under first Trump budget,” THE NEW YORK TIMES, 17 Feb. 2017, ret. 7 Dec. 2017, <https://www.nytimes.com/2017/02/17/us/politics/trump-program-eliminations-white-house-budget-office.html>.

³⁶ Janet Ikenberry, “The Harrisonburg-Rockingham Bar Association: A Quiet Tradition of Pro Bono,” VIRGINIA LAWYER, 1991.

services for the poor, which had already been unable to meet local needs and demand for such services prior to budget cuts.

IV. Virginia Pro Bono 1980s-Present

The financial and staffing pressures put on the professional legal aid organizations forced them to reach out to the private bar for additional assistance and it was during this period that private bar and corporate counsel collaboration on poverty law issues began to take root. As funding for the provision of free or low-cost legal services to low-income people became more uncertain, Virginia attorneys began to innovate. Necessity was the mother of invention for the pro bono legal community in the Commonwealth and it resulted in the development of programs and models never seen before. In the 1980s, bar associations in Richmond, Fairfax, Arlington, Harrisonburg, Rockingham and others developed pro bono programs in association with their local legal aids to match private lawyers with pro bono clients.

A notable example of creativity in supporting legal services was the institution of the Interest on Lawyers' Trust Accounts (IOLTA) program, which directs a portion of income from interest on lawyers' trust accounts to funding for legal aid programs.³⁷

Despite these early collaborations, a 1991 Virginia State Bar and Virginia Bar Association Joint Committee to Study Legal Services in Virginia discovered that 84 percent of the Commonwealth's poor lacked the benefit of counsel when confronted with a serious legal problem.³⁸ This provided further motivation for innovative measures to increase indigent legal services in Virginia.

A. Pro Bono and Private Law Firms

³⁷ "Virginia IOLTA Program Guidebook for Financial Institutions, Attorneys, and Title Companies," Legal Services Corporation of Virginia, Apr. 2014, ret. 4 Mar. 2018, <https://static1.squarespace.com/static/5632a199e4b0292ace726ae4/t/5637f911e4b050142588cf8d/1446508817420/LSCV+IOLTA+Guidebook+2014.pdf>.

³⁸ John E. Whitfield, "The Impact of the Justice Gap on Litigants: Are We Providing a Level Playing Field?" VIRGINIA LAWYER, vol. 63, Oct. 2014, ret. 14 Dec. 2017, <http://www.vsb.org/docs/va lawyermagazine/vl1014-justice-gap.pdf>.

Several large firms in Virginia have led the charge to organize the private bar's pro bono efforts. Hunton & Williams, for example, under the leadership of George Hettrick, recognized the value to both the community and the firm to an organized pro bono presence in the late 20th century. In 1990, Mr. Hettrick persuaded Hunton & Williams to take a step unprecedented for a law firm in Virginia: the firm opened an office in the Church Hill neighborhood to provide legal consultations and representation in court for a fee of only \$50.³⁹ Charging a small fee for legal services is called "low bono," rather than pro bono.

Before this, Hunton & Williams was typical of large law firms in Virginia in that pro bono was either performed ad hoc or in conjunction with programs developed and run by Legal Aid Societies. The Church Hill office changed that, however: the project started with 10 associates who agreed to take domestic, landlord-tenant, and guardianship cases, and over the years has expanded and prospered. Mr. Hettrick spent a good deal of time in the office's first year spreading news of its existence to school principals, churches, etc., so that people interacting with low-income Virginians would know about this new resource. He also spoke with local attorneys and bar associations, easing the project's entry into the legal community by reassuring members that the Church Hill office would not be diverting clients who would otherwise pay for services, but only took cases that would have been turned away by for-profit attorneys.⁴⁰

With the success of the Church Hill office in its first year, more volunteers from the firm's ranks joined in its second year, including many partners. The project also expanded geographically. Between 1992 and 1995, the Church Hill office changed its policy of accepting

³⁹ Frank Green, "2017 RTD Person of the Year honoree: George Hettrick, pro bono leader at Hunton & Williams," RICHMOND TIMES DISPATCH, 10 Dec. 2017, ret. 17 Feb. 2018, http://www.richmond.com/discover-richmond/rtd-person-of-the-year-honoree-george-hettrick-pro-bono/article_ed06c96e-e4ca-5449-8f70-72a962e7225d.html.

⁴⁰ George Hettrick phone interview, 5 Jan. 2018.

only clients from the City of Richmond and began to take clients from the greater Richmond area, including Henrico and Chesterfield.⁴¹

Since the mid 1990's dozens of Virginia law firms have developed creative and committed programs to encourage and foster pro bono support, from fellowships and internships, to collaborations with outside groups, bar associations and law schools, to fully integrated internal projects. This brief history will simply cite a few examples: Hunton & Williams for example, sponsors two fellowships which recruit young attorneys to devote their full-time practice to pro bono, public interest work. One of these fellows, recruited in even numbered years, is based in Richmond, and the second, recruited in odd-numbered years, works in New York. Each fellowship lasts for two years and includes \$10,000 each year for law school debt repayment.⁴² Each fellow works closely with local legal aid organizations, with the Richmond fellow splitting her time between the firm's Church Hill neighborhood office matters and cases handled through the Central Virginia Legal Aid Society.⁴³

Hogan Lovells put an innovative twist on sponsoring pro bono fellows in 2014 when they partnered with Lockheed Martin, one of their clients, to sponsor an Equal Justice Works fellowship for law school graduates who are also veterans.⁴⁴ The endeavor has come with numerous benefits: it continues to strengthen the relationship between the firm and its client, display the firm's commitment to public service, and allows recent law school graduates to deliver legal services free of charge to members of the community who would not otherwise have access to them.⁴⁵

⁴¹ Id.

⁴² "Fellowships," *Pro Bono*, HUNTON AND WILLIAMS, ret. 8 Mar. 2018, <https://www.hunton.com/en/about/pro-bono.html>.

⁴³ "Richmond Pro Bono Fellow," *Pro Bono*, HUNTON AND WILLIAMS, ret. 8 Mar. 2018, <https://www.hunton.com/en/about/pro-bono.html>.

⁴⁴ "A light in the storm: Highlights of our 2016 global Pro Bono Practice," HOGAN LOVELLS, 2017, ret. 17 Feb. 2018, at page 23, <http://viewer.zmags.com/publication/1d4441a3#/1d4441a3/22>.

⁴⁵ Timothy Lyden and Timothy Weymouth phone interview, 28 Feb. 2018.

McGuire Woods, has also been a force for innovation in the delivery of pro bono services in the Commonwealth. For example, together with the Southwest Virginia Legal Aid Society, McGuire Woods coordinated a “distance lawyering” program so that rural Virginians can more easily receive legal assistance in uncontested divorce cases, the first program of its kind in the Commonwealth.⁴⁶ McGuire Woods associate Matt Kapinos recognized and addressed another area of need nearly a decade ago when he founded the Veterans Task Force.⁴⁷

McGuire Woods also provides valuable and conventional legal representation to non-profits and individuals in Virginia. The firm encourages lawyers to engage in pro bono representation by celebrating its pro bono victories on the firm website. Recent examples in Virginia include an associate securing tax-exempt status for a non-profit that provides art programs for veterans and their families and refugee status for a refugee from Nepal and her family.⁴⁸

Hogan Lovells has had great success in bringing impact litigation and legislative efforts on behalf of its pro bono clients in recent years. Most legal aid organizations in Virginia do not engage in impact litigation because of federal rules governing their funding, which forbid lawsuits against government entities and lobbying local governments.⁴⁹ This makes Hogan Lovells’ work supporting such efforts especially valuable. One example of what the firm achieved through its big picture efforts is Virginia’s new age requirement for marriage: starting on July 1, 2016, unemancipated minors must be 18 years old to marry, regardless of parental

⁴⁶ Press Release, “McGuire Woods Receives Virginia State Bar’s Frankie Muse Freeman Pro Bono Award,” MCGUIREWOODS, 12 Sept. 2017, ret. 21 Feb. 2018, <https://www.mcguirewoods.com/News/Press-Releases/2017/9/Virginia-State-Bars-Freeman-Pro-Bono-Award.aspx>.

⁴⁷ “Matt Kapinos Receives Inaugural Greater Richmond Bar Foundation Hettrick Leadership Award for Pro Bono Work,” *Firm News*, MCGUIRE WOODS, 20 Jan. 2016, ret. 12 Mar. 2018, <https://www.mcguirewoods.com/News/Press-Releases/2016/1/Matt-Kapinos-Richmond-Bar-Association-Hettrick-Leadership-Award-Pro-Bono.aspx>.

⁴⁸ <https://www.mcguirewoods.com/Our-Firm/Pro-Bono/Pro-Bono-Story-Nonprofit-Arts-Program-for-Veterans.aspx>; <https://www.mcguirewoods.com/Our-Firm/Pro-Bono/Pro-Bono-Story-Family-Fled-Terror-in-Nepal.aspx>.

⁴⁹ “About Statutory Restrictions on LSC-funded Programs,” LEGAL SERVICES CORPORATION, ret. 4 Mar. 2018, <https://www.lsc.gov/about-statutory-restrictions-lsc-funded-programs>.

consent or pregnancy.⁵⁰ This illustrates the way that Hogan Lovells and other law firms can fill gaps in the provision of pro bono services created by restrictions on recipients of federal legal aid funding.

Another dramatic pro bono victory came when lawyers at Hogan Lovells convinced a federal judge to dismiss a law suit that would have forced the registrar in Alexandria to conduct an unnecessary purge of registered voters.⁵¹ Through the firm's partnership with the Mid-Atlantic Innocence project, lawyers at Hogan Lovells have contributed to the exonerations of three wrongfully convicted men in Virginia, including one of the Norfolk Four.⁵² They have also convinced courts in Virginia to designate as parole eligible several prisoners facing, they argued, inappropriately long prison sentences under the Commonwealth's "Three Strikes" law.⁵³

Williams Mullen has been a trailblazer in its work with Virginia law schools to encourage students' public service and legal training through pro bono work. Attorneys from Williams Mullen work with students at the University of Richmond and William and Mary Law Schools in programs that provide free legal services to indigent community members while also providing mentorship, guidance, and important legal skills to the students. Notably, Williams Mullen's Wills for Seniors program, which benefits from the participation of William and Mary Law School students, provides services for clients referred by the Peninsula Agency on Aging.⁵⁴ This mutually beneficial arrangement allows attorneys at Williams Mullen to better get to know their community and the Peninsula Agency on Aging is able to offer services to its clients that those clients would otherwise be unable to access. The firm also benefits from a closer relationship

⁵⁰ Robert Snoddy, "Hogan Lovells pro bono team helps draft legislation to end child marriage in Virginia," HOGAN LOVELLS, 8 Jul. 2016, ret. 28 Feb. 2018, <http://www.hoganlovells.com/en/news/hogan-lovells-pro-bono-team-helps-draft-legislation-to-end-child-marriage-in-virginia>.

⁵¹ 20 Jun. 2016, ret. 17 Mar. 2018, <http://www.demos.org/press-release/victory-virginia-federal-judge-dismisses-voter-purge-case>.

⁵² Tim Lyden and Jon Talotta, *Hogan Lovells US LLP's 2017 Frankie Muse Freeman Organizational Pro Bono Award Nomination*.

⁵³ Id.

⁵⁴ "Pro Bono and Community Service Opportunities," William & Mary Law School, ret. 23 Mar. 2018, <http://law.wm.edu/studentlife/probonoandpublicservice/index.php>.

with a local law school, improving the skills of soon-to-be lawyers, who in turn develop a positive impression of Williams Mullen's work in the community. The Immigration Assistance Program, in which University of Richmond students participate, and William and Mary's Wills for Seniors program are discussed more in the Law Schools section, below.

By the end of 2017, nearly 50 law firms in Virginia had a Pro Bono Partner and written policies to encourage and enable their members to engage in pro bono efforts.

B. Firms in Service

The Virginia Bar Association led the development of yet another innovation in pro bono delivery in Virginia: the Firms in Service program. Recognizing that pro bono was one legal activity in which competing firms could and should collaborate, in partnership with the Greater Richmond Bar Foundation, the Church Hill office of Hunton & Williams and a half a dozen Richmond based law firms, an informal partnership was formed. Before long, this partnership had turned into a 13-member alliance of 11 law firms and two corporate legal departments who meet every other month to support and coordinate the delivery of pro bono legal services in the Richmond Metropolitan area.⁵⁵

By 2017, the Firms in Service model had spread to Virginia Beach, Roanoke, Charlottesville, and Northern Virginia.⁵⁶

C. Bar Associations

Bar associations have played an important role both prior to the establishment of organized legal aid offices and, since the 1960s, in supplementing the activities of other entities in providing legal services to the poor across Virginia.

⁵⁵ "Firms in Service," Greater Richmond Bar Foundation, 24 Aug. 2017, ret. 8 Jan. 2018, <http://www.grbf.org/uncategorized/firms-in-service/>.

⁵⁶ Oral history, George Hettrick, 5 Jan. 2018.

The Arlington Bar Association was the first in the Commonwealth to organize a formal effort to close the justice gap, with a lawyer referral program that has operated since the 1950s.⁵⁷ In 1969, the Arlington Bar Association pioneered its Lawyer Referral Service, through which low-income people can receive a consultation for a small fee. This program has provided over 100,000 such consultations since its inception, helping to shrink the justice gap in Arlington.⁵⁸

In 1982, the Harrisonburg-Rockingham Bar Association also established a lawyer referral program and a formal Pro Bono Program.⁵⁹ The goal of the Pro Bono Program was for each member of the local Bar Association to volunteer 20 hours of civil pro bono services every year.⁶⁰ In 2001, when the HRBA had only 125 members, its members handled approximately 100 pro bono cases and donated more than \$82,000 of their time to representing their indigent neighbors.⁶¹ John Whitfield reported that 85 percent of members of the Bar Association participated in pro bono in both 2015 and 2016.⁶²

The Fairfax Bar Association followed with its Pro Bono Program, now called the Northern Virginia Pro Bono Law Center, in 1992, and hired a full-time, paid Director of Pro Bono Activities for the Center in 1999.⁶³ Through this organization, pro bono attorneys in Fairfax operate and staff a variety of programs to help low-income people with diverse legal issues. For example, the Center's Wills on Wheels and Neighborhood Outreach Programs provide legal services and referrals to indigent people at convenient locations throughout Fairfax

⁵⁷ George W. Dodge, Esq., "A Brief History of the Arlington County Bar Association," *History*, Arlington County Bar Ass'n., ret. 20 Mar. 2018, <https://www.arlingtonbar.org/history.html>.

⁵⁸ *Id.*

⁵⁹ John Whitfield email, 5 Mar. 2018.

⁶⁰ Janet Ikenberry, "The Harrisonburg-Rockingham Bar Association: A Quiet Tradition of Pro Bono," *VIRGINIA LAWYER*, 1991.

⁶¹ "Harrisonburg-Rockingham Bar Association," *Local Bar Spotlight*, *VIRGINIA LAWYER*, Apr. 2001, ret. 20 Mar. 2018, <http://www.vsb.org/docs/valawyer magazine/apr01localbar.pdf>.

⁶² John Whitfield email, 20 Mar. 2018.

⁶³ Arlene Beckerman email, 8 Mar. 2018.

County.⁶⁴ This makes the programs especially valuable because low-income people are more likely to have difficulty securing reliable transportation. By providing referral services to needy members of the community at places like homeless shelters and community centers, the Neighborhood Outreach Program makes it easier for vulnerable populations to receive legal assistance. Wills on Wheels provides pro bono will-drafting services at senior centers. The Center also provides representation in uncontested divorces and other family law matters.

As of 2017, many Bar Associations across Virginia have active pro bono committees and programs.

D. Corporations

Private corporations have taken a leadership role in providing pro bono legal services to the poor in Virginia, both through the work of their legal departments and by providing vital funding to innovative programs that ease the delivery of pro bono services. For example, the legal departments of Capital One and Dominion Energy participate in Firms in Service in Northern Virginia and Richmond.⁶⁵ Capital One and Dominion Energy are also two of the nine sponsors who together provide funding to Justice Server, an innovative tool that allows attorneys to view and work on pro bono cases from a variety of legal services providers. Through the Justice Server case management program, volunteer attorneys can browse available cases posted by various legal aid organizations and choose to work on one that matches their skill sets.⁶⁶

E. Law Schools

Law schools in Virginia have been on the front lines of encouraging free or low-cost representation of indigent Virginians, both through clinics and by encouraging students to perform pro bono without receiving academic credit. Clinic work, which is performed by

⁶⁴ *Northern Virginia Pro Bono Law Center: For the Lawyers and Paralegals*, ret. 17 Mar. 2018, <http://www.fairfaxlawfoundation.org/?page=41>.

⁶⁵ "Firms in Service," GREATER RICHMOND BAR FOUNDATION, 24 Aug. 2017, ret. 21 Mar. 2018, <http://www.grbf.org/uncategorized/firms-in-service/>.

⁶⁶ JUSTICE SERVER: A TECHBRIDGE SOLUTION, ret. 21 Mar. 2018, <https://www.justiceserver.org/JusticeServer>.

students in exchange for academic credit but not financial compensation, is technically not considered “pro bono,” but clinics facilitate the delivery of considerable legal services to low-income people around the Commonwealth every year. In addition to offering hands-on opportunities for students to perform legal work in exchange for academic credit, like clinics and externships, law schools in Virginia also have instituted formal programs to encourage students to get and stay involved in pro bono throughout their careers. These activities are an important part of the effort to close the justice gap in the Commonwealth today.

1. Pro Bono

Pro Bono Hours Required for Award

Washington & Lee	150
University of Richmond	120
William & Mary	120
University of Virginia	75
Regent University	50

The University of Virginia hired a full-time employee to develop its public service programming in 1992. That employee was Kimberly Emery, now Assistant Dean for Pro Bono and Public Service. Under her tenure, UVA Law established its Pro Bono Program in 1999 and the Mortimer Caplin Public Service Center in 1996. She instituted innovative campaigns to encourage pro bono participation. One such campaign is UVA Law’s Pro Bono Challenge, which encourages students to perform 75 hours of pro bono service during law school. LLM candidates need only complete 25 hours of pro bono in order to meet the Pro Bono Challenge, since they are only at UVA for one year. Upon completing the challenge, students receive a small gift, recognition in the graduation brochure, and a Certificate of Achievement signed by the Dean of the Law School.⁶⁷

⁶⁷ Andrew Broaddus email, 17 Jan. 2018.

UVA Law has also institutionalized winter break and spring break pro bono opportunities and Dean Emery estimates that about one-third of students do some winter pro bono each year.⁶⁸ In the 2007-2008 Winter Break Pro Bono Project, for example, the Caplin Public Service Center found projects for 114 of the 135 students who applied to the program, resulting in the students performing approximately 3,000 hours collectively. This includes work performed for local, state, and federal government offices, but many students worked for legal aid organizations and other groups providing non-profit organizations providing pro bono or low-bono legal services to indigent people.⁶⁹

Under Dean Emery's leadership, UVA Law students also have the opportunity to participate in the Hunton and Williams Pro Bono Partnership. This innovative partnership was established in 2005 and was the first organized, ongoing, law firm-law school endeavor to provide free legal services to low-income people in the Commonwealth.⁷⁰ In this program, students are supervised by Hunton and Williams attorneys based at the Rock House in Charlottesville.⁷¹ They provide assistance in child custody, support, divorce, domestic violence protective orders, and immigration asylum cases.⁷²

The University of Richmond School of Law also confers a certificate upon students for pro bono service at graduation and requires 120 hours of service for recognition.⁷³ Nearly 20

⁶⁸ Kimberly Emery phone interview, 2 Jan. 2018.

⁶⁹ Ken Reitz, "Students Set Pro Bono Record Over Winter Break," UVA LAWYER, Spring 2008, ret. 4 Mar. 2018, <http://www.law.virginia.edu/html/alumni/uvalawyer/spr08/studentprobonorecord.htm>.

⁷⁰ Michael Marshall, "Law School, Hunton & Williams Team Up to Serve Low-Income Residents," *News & Media*, U. OF VIRGINIA SCHOOL OF L., 5 May 2005, ret. 4 Mar. 2018, http://content.law.virginia.edu/news/2005_spr/hunton.htm

⁷¹ "Pro Bono Opportunities," *The Pro Bono Program*, U. OF VIRGINIA SCHOOL OF L., ret. 4 Mar. 2018, <https://content.law.virginia.edu/pro-bono/pro-bono-opportunities>

⁷² Michael Marshall, "Law School, Hunton & Williams Team Up to Serve Low-Income Residents," *News & Media*, U. OF VIRGINIA SCHOOL OF LAW, 5 May 2005, ret. 12 Mar. 2018, http://content.law.virginia.edu/news/2005_spr/hunton.htm

⁷³ Tara L. Casey, "Pro Bono at University of Richmond School of Law," 65 VIRGINIA LAWYER 32 (Oct. 2016), ret. 7 Feb. 2018, <https://scholarship.richmond.edu/cgi/viewcontent.cgi?referer=http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKewiU-Kz-mJTZAhVuoFkKHdJAAUYQFghCMAc&url=http%3A%2F%2Fscholarship.richmond.edu%2Fcgi%2Fviewcontent>

percent of the class of 2016 received this commendation; together, they performed approximately 5,400 hours of service.⁷⁴ The University of Richmond School of Law established the Harry L. Carrico Center for Pro Bono and Public Service in 2007 with the generous funding of David Baldacci, Thomas Chandler, and Laura Lee.⁷⁵ Since then, the Law School pioneered an innovative partnership with the University of Richmond's undergraduate Center for Civil Engagement. The two entities together established UR Downtown, an engagement space that houses the Carrico Center and serves as a meeting space for classes, field trips, community groups, and students and faculty meeting with pro bono or clinic clients.

The University of Richmond School of Law's pro bono program operates in a symbiotic relationship with the local bar. For example, students participate in a pro bono wills program in direct partnership with Williams Mullen and attorney J. Andrew Nea.⁷⁶ In this program, law students under Mr. Nea's supervision help low-income individuals draft wills, power of attorney, and advance medical directives. The clients are often "low-income cancer patients, military veterans, recovering drug addicts and senior citizens directed to [Mr. Nea] by nonprofits, senior organizations, social services agencies and McGuire Veterans Affairs Medical Center."⁷⁷ Drafting these documents takes only about 45 minutes per client, so the pro bono wills project is able to help thousands of people. A representative of Senior Connections, for example, reported that the program has helped draft documents for 3,000 people just for that organization.⁷⁸ The Law School also participates in a pro bono no-fault divorce program in partnership with the local

[.cgi%3Farticle%3D2370%26context%3Dlaw-faculty-publications&usg=AOvVaw3bUnpwAclWphUuWMmo971&httpsredir=1&article=2370&context=law-faculty-publications](https://www.richmond.com/news/special-report/making-a-difference/retired-williams-mullen-lawyer-providing-a-will-for-those-who/article_aea27a7c-3ce4-5340-9af4-4b0af4c39f69.html)

⁷⁴ Id.

⁷⁵ Tara Casey phone interview, 7 Feb. 2018.

⁷⁶ Michael Paul Williams, "Retired Williams Mullen lawyer providing a will for those who need it most," RICHMOND TIMES-DISPATCH, 17 Dec. 2017, ret. 12 Mar. 2018, http://www.richmond.com/news/special-report/making-a-difference/retired-williams-mullen-lawyer-providing-a-will-for-those-who/article_aea27a7c-3ce4-5340-9af4-4b0af4c39f69.html

⁷⁷ Id.

⁷⁸ Id.

bar and the Greater Richmond Family Law Bar and two different pro bono immigration programs, which together comprise the Immigration Assistance Project.⁷⁹ Students volunteer to work on cases in conjunction with the Challa Law Office and the Virginia Poverty Law Center⁸⁰ and at a monthly clinic with Williams Mullen and the Virginia Hispanic Chamber of Commerce.⁸¹

William and Mary School of Law also confers a pro bono certificate on students who complete 120 hours or more of pro bono work in their three years of law school. The school has established programs to encourage and facilitate students' pro bono work, notably in conjunction with law firms and the local bar association. Through the Wills for Seniors program, for example, William and Mary law students work with attorneys from Williams Mullen to conduct intake interviews, draft, and execute wills for clients who are referred by the Peninsula Agency on Aging.⁸² This program illustrates the way that pro bono efforts can reinforce the missions of both educational and community nonprofit organizations. It increases students' awareness of their community in addition to its obvious educational value.

At Washington and Lee School of Law, students who complete more than 150 hours of uncompensated and uncredited service receive a certificate and are honored at an awards ceremony before the graduation ceremony.⁸³ Washington and Lee requires students to have some actual practice experience in order to graduate and many students choose to fulfill this requirement by performing pro bono or clinical work that aids low-income Virginians.

⁷⁹ Tara Casey phone interview, 7 Feb. 2018.

⁸⁰ *Pro Bono Programs*, Richmond School of Law, ret. 12 Mar. 2018, <https://law.richmond.edu/public-service/pro-bono/programs.html>.

⁸¹ "Immigration Assistance Project: Pro bono clinic lets students use language skills and gain legal experience," *Newsroom*, U. OF RICHMOND, 7 Feb. 2011, ret. 12 Mar. 2018, <https://news.richmond.edu/features/article/-/4778/immigration-assistance-project-pro-bono-clinic-lets-students-use-language-skills-and-gain-legal-experience.html?sma=sm.0000dmclf7p3zdg1101bihwnd111n>.

⁸² "Pro Bono and Community Service Opportunities," WILLIAM & MARY LAW SCHOOL, ret. 23 Mar. 2018, <http://law.wm.edu/studentlife/probonoandpublicservice/index.php>.

⁸³ *Public Service Guidelines and Procedures*, W. & L. LAW, ret. 12 Mar. 2018, <https://law.wlu.edu/students/service>

Regent University School of Law recently adopted a policy encouraging students to complete at least 50 hours of pro bono or public service work by the time they graduate. A maximum of 20 hours may be non-legal public service. The Law School is currently evaluating whether to make this a graduation requirement.⁸⁴ This would require the expansion of Regent's formal pro bono offerings in order that projects would be available to every student, which is currently underway.

Liberty University also recognizes students who complete a set number of pro bono hours. In 2011, Liberty University School of Law provided the second most pro bono hours of any law school in the United States for the Volunteer Income Tax Assistance (VITA) program. That year, 35 Liberty students volunteered more than 400 hours to prepare more than 400 income tax returns for low-to-middle-income Virginians.⁸⁵ In 2018, 50 students participated.⁸⁶ Liberty University also routinely places students in externships for legal aid organizations working to close the justice gap in Virginia and elsewhere. Offering academic credit in exchange for legal aid work encourages these future lawyers to internalize the spirit of pro bono and make a career-long commitment to meeting the legal needs of their lower-income neighbors.

2. Clinics

Law schools embrace clinics as a mutually advantageous innovation. Washington and Lee established the forerunner to its Advanced Administrative Litigation Clinic in 1996, when students began helping patients at the nearby Western State Hospital to secure social security, Medicaid, and other government benefits.⁸⁷ Today, the Clinic focuses exclusively on assisting

⁸⁴ Kathleen McKee phone interview, 15 Feb. 2018.

⁸⁵ "Liberty law students to volunteer free tax return preparation services," *Liberty News*, LIBERTY UNIVERSITY, 20 Jan. 2012, ret. 23 Mar. 2018, <http://www.liberty.edu/news/index.cfm?PID=18495&MID=46246>.

⁸⁶ Debra Beale interview, 23 Mar. 2018.

⁸⁷ Mary Natkin phone interview, 12 Feb. 2018.

coal miners and their survivors in pursuing federal black lung benefits and has represented about 200 clients since 1996.⁸⁸

Regent University School of Law established its first clinic in 1999. This Civil Practice Clinic was the gradual outgrowth of a partnership between Regent and now-Professor Kathleen McKee, then of the Tidewater Legal Aid Society (now the Legal Aid Society of Eastern Virginia).⁸⁹ Prof. McKee came to Tidewater in 1993 from North Carolina, where she ran a legal aid office and was accustomed to student externs and volunteers helping to handle the unflagging demand for services while they received real-world training and experience. In Eastern Virginia, however, the local law school, Regent University, had no experiential learning program, so Prof. McKee approached the school to recruit externs.⁹⁰ At this time, Ms. McKee was the managing attorney of Tidewater Legal Aid.⁹¹ Regent Law students enjoyed the externship, so the Law School asked Prof. McKee to teach a one-credit course about public interest law and then to help design a clinic.

Alone among Virginia law schools, Regent hosts both clinics and practica.⁹² Practica only have slots for three or four students a semester and consist primarily of legal research and writing. Many of Regent's practica provide students with opportunities to perform free or low-cost legal work for indigent clients and close the justice gap. Community partners have sometimes approached Regent with unmet legal needs that grew into a practicum, clinic, or other experiential learning program. For example, the Child Advocacy Clinic evolved from a practicum wherein a student wrote a white paper on behalf of a domestic violence shelter. The

⁸⁸ *Advanced Administrative Litigation Clinic (Black Lung)*, W. & L. LAW, ret. 12 Mar. 2018, [https://law.wlu.edu/clinics/advanced-administrative-litigation-clinic-\(black-lung\)](https://law.wlu.edu/clinics/advanced-administrative-litigation-clinic-(black-lung)).

⁸⁹ Kathleen McKee phone interview, 15 Feb. 2018.

⁹⁰ Id.

⁹¹ *Kathleen A. McKee, LL.M.*, REGENT U. SCHOOL OF L., ret. 12 Mar. 2018, <https://www.regent.edu/law/faculty/ll-m-kathleen-a-mckee/>.

⁹² *Practicums*, REGENT U. SCHOOL OF L., ret. 12 Mar. 2018, <https://www.regent.edu/acad/schlaw/academics/practicums.cfm>.

shelter noticed that some tenants were “shelter hopping,” moving between shelters every 30 days when the shelter terms dictated they had to leave, and this resulted in their children having to move between schools each month. This violated the McKinney-Vento Act, but the local Board of Education was intransigent. A Regent student wrote a white paper about the issue, showing that continuing to violate the Act could result in termination of the local school district’s federal funding, and the Board of Education agreed to change their policy to conform with federal law. Children’s Hospital then approached Regent’s Law School about a medical-legal partnership and the practicum evolved into a clinic. The Child Advocacy Clinic has more capacity than the practicum did. For example, clinic students recently handled approximately seven cases after a big storm caused mold in homes occupied by children with asthma.⁹³

Dean Patricia Roberts joined the faculty of William and Mary School of Law as Acting Director of the clinical program in 2007 and became Director in 2008.⁹⁴ She has seen clinics become increasingly popular over the course of her tenure. She summarized this phenomenon: “There has been a tremendous increase in the interest of students in being involved in clinics, both so they can be practice ready and so they can provide legal services to those in the community who need it.”⁹⁵ Clinics have many positive effects for law schools: they provide hands-on experience for students, a boon to prospective employers; increase name recognition and the school’s positive reputation among the community; help the legal system run more smoothly by providing representation to those who cannot afford to retain private counsel; and enrich the law school experiences of students. William and Mary has enthusiastically supported of growing the clinical education there. Dean Roberts reports that interest has also surged among

⁹³ Kathleen McKee phone interview, 15 Feb. 2018.

⁹⁴ *Patricia E. Roberts*, William & Mary L. School, ret. 12 Mar. 2018, <https://law2.wm.edu/faculty/bios/fulltime/perobe.php>

⁹⁵ Dean Patricia Roberts phone interview, 5 Feb. 2018.

students because clinics provide hands-on experience, allowing them to hone legal practice skills even before graduation.

Over 200 clinic students at William and Mary volunteer over 40,000 hours of free legal services each year in 10 clinics, ranging in subject from domestic violence to marine and coastal policy.⁹⁶ Two of these clinics – domestic violence and family law – serve clients referred from the Legal Aid Society of Eastern Virginia, an illustration of the innovative ways that organizations straining to close the justice gap can help one another. At William and Mary School of Law, clinics are primarily funded by private donors, although the school recently completed fundraising to build the Hickson Center for Experiential Learning and Leadership, the ground floor of which will be devoted to the clinical program.

Liberty University was proud to debut a new, two-semester, legal aid clinic for the 2017-2018 academic year. This clinic operates in conjunction with Lynchburg’s Virginia Legal Aid Society (VLAS) and provides students with training and hands-on experience representing indigent Virginians in housing, public benefits, consumer protection, protective orders, and no-fault divorce cases.⁹⁷ In its first year, four students are participating in the Clinic but the application process was competitive, illustrating remarkable demand for such an opportunity, and Liberty University hopes to expand the clinic class in the coming years.⁹⁸ Thanks to funding from the Legal Services Corporation and Liberty University, this clinic allows VLAS to serve more Virginians who would otherwise be unable to afford legal representation.⁹⁹

V. Conclusion

⁹⁶ WILLIAM & MARY LAW SCHOOL VIRGINIA COASTAL POLICY CENTER, ret. 12 Mar. 2018, <http://law.wm.edu/academics/programs/jd/electives/clinics/vacoastal/docs/vcpc%20brochure%202016.pdf>

⁹⁷ “Liberty University and Virginia Legal Aid Society Launch Law Clinic,” VIRGINIA LEGAL AID SOC’Y, 6 Oct. 2017, ret. 23 Mar. 2018, <http://vlas.org/liberty-university-and-virginia-legal-aid-society-launch-law-clinic/>.

⁹⁸ Josh Moody, “Hands-On Practice: Nonprofit, Liberty University partner on clinic for clients in need,” THE NEWS ADVANCE, 23 Oct. 2017, ret. 23 Mar. 2018, http://www.newsadvance.com/townnews/law/hands-on-practice/article_168a6de5-31d2-5b5a-9f98-6975ac807fce.html.

⁹⁹ Id.

In 2007, the Legal Services Corporation of Virginia updated the 1991 survey of need for legal services and found that only 17 percent of Virginia's needy had the benefit of counsel when facing a serious legal problem, nearly identical the 1991 finding.¹⁰⁰ The lack of improvement over the 16 years between these two surveys may be attributable to the ongoing decrease in funding for legal services organizations over this period. It has been common in recent years for legal aid groups to have to lay off or refrain from replacing attorneys and staff after they leave, due to the organizations' financial hardship.¹⁰¹ Following the financial crisis of 2008, demand for free legal services expanded because more Virginians than before met the income criteria used by many providers of pro bono legal aid. Unfortunately, this coincided with budget cuts to legal services on a national level, so many organizations struggled to meet greater demand with fewer resources.¹⁰²

Despite the scarcity of resources and continuous demand, lawyers engaged in the low- or no-cost provision of legal services to the poor remain energized and optimistic. They continue to devise innovative, new models in the hope of closing the justice gap in Virginia. Prof. Kathleen McKee explained, "We're dealing with the challenge that we're seeing fewer and fewer legal aid attorneys. But if we can train very good attorneys who spend five years in legal aid and then move on but still perform pro bono, then, at the end of the day, we are improving access to justice."¹⁰³

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¹⁰⁰ John E. Whitfield, "The Impact of the Justice Gap on Litigants: Are We Providing a Level Playing Field?" VIRGINIA LAWYER, vol. 63, Oct. 2014, ret. 14 Dec. 2017, <http://www.vsb.org/docs/vlawyermagazine/vl1014-justice-gap.pdf>.

¹⁰¹ Dick Gordon and John Whitfield, "The State of Legal Aid," THE STORY, 9 Oct. 2012, ret. 8 Mar. 2018, <http://www.thestory.org/stories/2012-10/state-legal-aid>.

¹⁰² Dawn Chase, "Legal Aid Appeal: Consider IOLTA," VIRGINIA BAR ASS'N, 26 Jan. 2012, ret. 4 Mar. 2018, <http://www.vsb.org/site/news/item/consider-iolta>.

¹⁰³ Kathleen McKee phone interview, 15 Feb. 2018.