



THE BUSINESS CASE FOR IN-HOUSE PRO BONO

Esther F. Lardent

During the past few years, the number of formal, organized pro bono efforts at in-house corporate legal departments, and the participation of in-house lawyers and legal staff in pro bono matters, have increased dramatically. Led by a growing number of general counsel strongly committed to pro bono service and potentiated by the work of Corporate Pro Bono (CPBO), a partnership project of the Association of Corporate Counsel (ACC) and the Pro Bono Institute (PBI) that provides tailored information, guidance, training, and support to in-house legal departments, in-house pro bono is becoming an accepted, valued, and well-integrated aspect of in-house practice.

Legal department lawyers, like lawyers in other practice settings, take on pro bono matters despite hectic work schedules for a variety of reasons: the distressing gap between those desperately in need of legal assistance and the available resources (a number of studies have found that 80% of low-income persons unable to afford an attorney are unable to secure legal help); the ethical obligation to provide service that is at the core of every lawyer's professional identity; the desire to use one's skills and expertise to make the world a better place. In-house legal departments – and their legal staff – do not provide volunteer legal services to enhance their professional stature, skills, or business goals. However, properly structured, implemented, and aligned pro bono programs can, in fact, enhance critical aspects of the operations of companies and their legal departments. The pro bono business case for law firms has been established. Major law firms now realize that pro bono service can and does enhance important firm functions. While the business case for pro bono service at in-house legal departments is different from that at major firms, it is equally clear and compelling.

Recruitment and Retention

There is substantial competition for in-house lawyers who have the requisite skills to add value to legal departments. Most legal departments recruit experienced laterals rather than recent law school graduates, but pro bono is a factor for both groups. In particular, the growing number of talented law firm associates and partners who have been active pro bono participants while at their firms will be attracted to legal departments that afford them the ability to continue to take on pro bono assignments. In addition, many potential hires in the legal department view a commitment to pro bono as an important indicator that the company – and its legal department – value their employees as individuals and evidence a broader commitment to society. One study (Cone, Inc., 2002) found that 77% of job seekers consider the social commitment of a company as a factor when choosing an employer.

While some in-house lawyers seek advancement – and aspire to become general counsels – many in-house attorneys have limited advancement opportunities. To avoid losing able, seasoned lawyers, law departments must create a workplace environment that continues to stimulate and satisfy experienced and knowledgeable staff. Pro bono engagements offer the opportunity to broaden and vary work, interact with different people inside and outside of the legal department, and work in a different environment that makes use of lawyers' skills. The departure of a valued attorney is a major financial loss, with total costs – interruption of service, search and transition expenses, etc. – typically exceeding

the annual salary of the employee. Pro bono service, for some lawyers, can be important factor in promoting retention.

Corporate Social Responsibility/Corporate Citizenship

Corporations are increasingly recognizing the importance and value of corporate social responsibility – actions that ensure that companies are good and responsible citizens of the communities in which their employees live and work. Corporate social responsibility has been defined as “...the contribution that a company makes in society through its core business activities, its social investment and philanthropy programs, and its engagement in public policy. That contribution is determined by the manner in which a company manages its economic, social, and environmental impacts and also manages its relationships with different stakeholders, including shareholders, employees, customers, business partners, governments, communities, and future generations.”

The involvement of a company’s legal department in pro bono service adds value and breadth to that company’s CSR profile and activities. Pro bono service enhances the quality of life and stability of residents and the community at large, making an important contribution and, as well, creating a better business climate. It provides a specialized and highly desirable outlet for employee voluntarism and, often, complements the company’s charitable giving and other philanthropic activities. It should come as no surprise that the pro bono work undertaken by legal departments is increasingly cited and applauded in corporations’ annual corporate social responsibility reports.

Professional Development

As large law firms have discovered, pro bono engagements provide critically important professional development opportunities not only for younger lawyers but also for more experienced counsel. Pro bono work enables lawyers to maintain their proficiency in areas – such as litigation – that is no longer a routine part of their daily work. It also provides the opportunity for lawyers to hone skills that are immediately applicable to their work for the company – negotiation, leadership of a team effort, working effectively with partnering organizations, etc.

Integration with the Company and the Community

Pro bono work enables members of the legal department to address a sense of isolation – from other members of their profession, from the company as a whole, from their communities – that may arise in the in-house environment. Work on a pro bono matter or project, particularly one undertaken in conjunction with a local pro bono organization or NGO, promotes interaction with other lawyers. At some corporations, legal departments are taking on pro bono projects that add a legal dimension to already existing corporate volunteer and/or philanthropic efforts. For example, the legal department at a company that focuses its charitable giving and volunteer service on enhancing children’s educational opportunities could provide legal assistance to low-income families seeking to improve the education available to their developmentally disabled children. A legal department at a company whose volunteers provide housing and food for the poor and homeless could use their legal skills to help those targeted by the company to become eligible for food stamps and to secure safe and affordable homes. In doing so, the corporation’s legal department not only improves the outcomes for those whom the company is striving to help, it also demonstrates to its internal clients the value of the department’s legal skills.

Similarly, pro bono work helps the legal department, and, through its counsel, the company as a whole to better understand the communities where it is doing business and to help ensure that the company is viewed as a good citizen and a good neighbor in its communities.

Improved Teamwork and Morale

Studies have consistently demonstrated the value of voluntarism in improving morale and productivity by reinforcing a sense of pride, common values and vision, and deepening personal relationships. Pro bono projects enable members of the legal department, who may otherwise have little or no contact, to work together toward a common goal. Signature pro bono projects – those targeted to a particular area of the law or client population – can involve lawyers – and non-lawyers – at varying levels of seniority and across offices and areas of specialization. A number of companies that have experienced financial or legal difficulties have found that a shared pro bono culture can play an important role in maintaining a positive outlook and a shared sense of responsibility and pride in the company.

Improved Inside/Outside Counsel Relationships

The growing trend toward the development of joint pro bono ventures between and among legal departments and their outside counsel enables each party to the relationship to leverage their particular strengths and skills. It also provides an opportunity to work together “off the clock” in a manner that strengthens mutual understanding and respect. This, in turn, enables outside counsel to gain a better understanding of the client legal department so they can better respond to its commercial needs.

Diversity

While in no way a substitute for attracting, retaining, and managing a diverse workforce, pro bono can intersect with and strengthen the department’s commitment to diversity. Some legal departments and law firms, for example, have focused their pro bono activity on matters of particular importance to families and communities of color. This focus affords an opportunity to all employees – regardless of race, ethnicity, gender, etc. – to gain a better understanding of the issues and concerns facing these communities and individuals.

Reputation

Consumers, regulators, shareholders, employees – all of these groups view the actions and initiatives of corporations in the larger context of corporate reputation. Studies indicate that charitable giving – both dollars and in-kind – as well as a demonstrated commitment to improving local communities – are particularly convincing indicia of a “good” company. On a narrower scale, legal publications that cover in-house counsel news are increasingly aware of and focused on pro bono service. For example, Corporate Counsel magazine, in launching its annual awards for best legal department made pro bono service one important criterion for that award.

Conclusion

There is a growing recognition that a well-designed, institutionally supported legal pro bono program can enhance and strengthen the communities in which corporations operate while, at the same time, addressing key operating issues in a manner that strengthens the performance, reputation, and effectiveness of in-house legal departments.

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