

Pro bono Work to Empower and Represent (POWER) Act Presentation November 12, 2020

As lawyers, we have an ethical obligation to provide services *pro bono publico* (for the public good).

Iowa Rule of Professional Conduct 32:6.1

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year.

The concept of obligatory *pro bono publico* service stems from the fact that we are members of a profession. We have an obligation to use our special skills, to help those who are unable to afford these professional services.

R. Sargent Shriver, Jr., put it this way:

I believe our government and my profession have a positive moral and legal duty to make sure that legal services are available for the poor on an accessible, affordable, regular, dignified basis, and if necessary, free of charge. Which means that I, as a lawyer, believe that some significant part of my money, time, thought and energy belongs – I don't give it – it belongs to others, not just to me.¹

Justice Sandra Day O'Connor reflected on the need and obligation for *pro bono* service, and how that is demonstrated by professionalism:

Ensuring that there is, indeed, "Equal Justice Under Law" – not just for the wealthy, but for the poor, disadvantaged, and the disenfranchised – is the sustenance that brings meaning and joy to a lawyer's professional life.² As pointed out by Justice Kennedy in *Mallard v. U.S. District Court for the Southern District of Iowa*, 490 U.S. 296 (1989), "it is precisely because our duties go beyond what the law demands that ours remains a noble profession."

¹ R. Sargent Shriver, Jr., *Washington Post*, June 6, 1982.

² Professionalism: Remarks at the Dedication of the University of Oklahoma's Law School Building and Library, 2002, 55 Okla. L. Rev. 197 (Summer, 2002).

Lawyers who practice in the Northern and Southern Districts of Iowa have a rich tradition of *pro bono* service in prisoner civil rights cases and help with other *pro se* cases. Your assistance with representation through established programs allows more efficient case management, reduces the Court's backlog, and increases respect for the Rule of Law. Please join your colleagues in learning more about how you can help your local courts manage and deliver justice to these vulnerable populations.

The POWER Act requires each United States District Court to partner with local service providers to promote pro bono service to assist survivors of domestic violence, dating violence, sexual assault and stalking, including Indian victims and survivors.

POWER Act, 2019 S. 717, P.L. 115-237:

Each federal district must lead at least one event annually, in partnership with a Domestic Violence Service Provider, or Volunteer Lawyers Project promoting *pro bono* legal services as a critical way to empower survivors of domestic violence, dating violence, sexual assault and stalking, and engage citizens in assisting those survivors.

For judicial districts with an Indian tribe or tribal organization, the district must lead an event at least every two years in partnership with an Indian tribe or tribal organization with the intent of increasing the provision of pro bono legal services for Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, and stalking.

Providing pro bono services helps others—and it can help you:

- hone your legal skills and people skills
- improve your mood and decrease stress and your risk of depression
- gain a sense of purpose and reward



Programs such as the Volunteer Lawyers Project in Polk County, Iowa Legal Services, and various special intake clinics, and the ability to enter an appearance for a limited purpose help Iowa lawyers meet their obligations.

FACTS ABOUT GENDER-BASED VIOLENCE

What is Domestic Violence?

Domestic violence is a pattern of coercive behaviors used by a person to maintain control over an intimate partner. Coercive behaviors can include isolation, psychological abuse, sexual violence, economic control, manipulation of children, stalking, threats, intimidation, and physical assaults.

National Domestic Violence Statistics

Domestic Violence Dynamics:

National Coalition Against DV, [Dynamics of Abuse](#)

National DV Hotline, [What Is Domestic Violence?](#)

National Resource Center on DV, [About Domestic Violence](#)

What is Sexual Violence?

Sexual violence is any type of unwanted sexual contact, including words and actions of a sexual nature against a person's will and without their consent. A person may use force, threats, manipulation, or coercion to commit sexual violence.

National Sexual Violence Statistics

Sexual Violence Dynamics:

National Sexual Violence Resource Center, [About Sexual Assault](#)

Rape, Abuse, & Incest National Network, [Types of Sexual Violence](#)

What is Stalking Violence?

Stalking is a pattern of behavior directed at a specific person that would cause a reasonable person to feel fear.

National Stalking Violence Statistics

Stalking Violence Dynamics:

Stalking Prevention, Awareness, and Resource Center, [Definition & FAQs](#)

SPARC, [Stalking & Intimate Partner Violence](#)

National Intimate Partner & Sexual Violence Survey
Centers for Disease Control & Prevention (Full Report)

WHY IS LEGAL ASSISTANCE FOR VICTIMS IMPORTANT?

I asked my client why she was crying ... She smiled and said that hers were tears of joy from having so many advocates, after feeling powerless for so long. More than the legal victory we won, her feeling of empowerment was an important measure of success. Her husband was a wealthy man and now she, too, had resources—the experience gave her strength, in addition to justice.

Similar resources are ready and waiting throughout the United States to help those in need. Well-meaning attorneys and publicly minded law firms are eager to take on pro bono cases and help others access justice. Regretfully, too few nonprofit organizations maximize their engagement.

Layli Miller-Muro, Founder of Tahirih Justice Center^[1]

Skilled legal representation is critical to successful intervention and accountability.

- Legal services are second only to medical services as the most-requested need of victims. However, of all women who reported needing legal services, 64 percent received NO assistance from an attorney. ^[2]
- LSC-funded programs are the nation's primary source of legal assistance for victims of domestic violence. ^[3]
- According to one study, 83 percent of victims represented by an attorney successfully obtained a protective order, as compared to just 32 percent of victims without an attorney. ^[4]
- In 86 percent of cases where a victim received a protection order, the abuse stopped or was greatly reduced. ^[5]
- “[T]he provision of legal services significantly lowers the incidence of domestic violence...Because legal services help women with practical matters such as protective orders, custody, and child support they appear to actually present women with real, long-term alternatives to their relationships.” ^[6]

WHAT CAN VOLUNTEERS DO IN GENDER-BASED VIOLENCE CASES? (AND WHAT IF THEY DON'T WANT TO LITIGATE?)

Types of Volunteers:

- Litigators
- Transactional attorneys
- Policy attorneys
- Research attorneys
- Retired/inactive attorneys
- New attorneys
- Experienced attorneys
- Non-attorneys, including paralegals, administrative staff, and civilians

Types of cases:

- Civil Protection Order
- Divorce & Property Division
- Child Custody & Support
- Child Welfare/Juv. Justice
- GAL/Child's Attorney
- Immigration
- Disability
- Income Maintenance
- Consumer Debt
- Employment
- Expungement/Vacatur
- Housing
- Education
- Health Care
- Privacy
- Tribal law
- Military law
- Torts/Insurance
- Criminal law



Types of legal opportunities:

- Advice and counsel clinics & hotlines
- Legal information at self-help centers
- Brief or extended representation
(*e.g. from protection orders to immigration to complex family*)
- Impact litigation or policy advocacy
(*e.g. appeals, legislation/lobbying*)
- Litigation support (*e.g. depositions, experts, stenographers, transcripts*)
- Community education & outreach
(*e.g. Know Your Rights*)
- Transactional or other legal assistance to nonprofit organizations (*e.g. subpoena defense, general counsel*)
- Mentoring other volunteers



Types of nonlegal opportunities:

- Public awareness (*e.g. op-eds, articles, brochures, websites, social media...*)
- Outreach (*e.g. staffing info booths, campaign drives, fundraising, etc.*)
- Training support (*e.g. donating space, registration system, nametags, photocopying, lunch...*)



Types of time commitment:

There are widely varying levels of time commitments and opportunities for limited scope representation.

PUBLIC SERVICE

Rule 32:6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:

- (1) persons of limited means or
- (2) charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system, or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Comment

[1] Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render on average per year, the number of hours set forth in this rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation.

[2] Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making, and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the outside practice of law.

[3] Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation or by the Iowa Lawyer Trust Account Commission, or other comparable non-profit programs offering legal services to the economically disadvantaged, and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but, nevertheless, cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women's centers, and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[4] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory, or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2) and paragraphs (b)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b)(3), to the extent permitted by such restrictions.

[6] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims, and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural, and religious groups.

[7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this paragraph.

[8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator, and engaging in legislative lobbying to improve the law, the legal system, or the profession are a few examples of the many activities that fall within this paragraph.

[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide the pro bono legal services called for by this rule.

[12] The responsibility set forth in this rule is not intended to be enforced through disciplinary process.

[Court Order April 20, 2005, effective July 1, 2005]



PUBLIC LAW 115–237—SEPT. 4, 2018

132 STAT. 2447

Public Law 115–237
115th Congress

An Act

To promote pro bono legal services as a critical way in which to empower survivors of domestic violence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pro bono Work to Empower and Represent Act of 2018” or the “POWER Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Extremely high rates of domestic violence, dating violence, sexual assault, and stalking exist at the local, State, tribal, and national levels and such violence or behavior harms the most vulnerable members of our society.

(2) According to a study commissioned by the Department of Justice, nearly 25 percent of women suffer from domestic violence during their lifetime.

(3) Proactive efforts should be made available in all forums to provide pro bono legal services and eliminate the violence that destroys lives and shatters families.

(4) A variety of factors cause domestic violence, dating violence, sexual assault, and stalking, and a variety of solutions at the local, State, and national levels are necessary to combat such violence or behavior.

(5) According to the National Network to End Domestic Violence, which conducted a census including almost 1,700 assistance programs, over the course of 1 day in September 2014, more than 10,000 requests for services, including legal representation, were not met.

(6) Pro bono assistance can help fill this need by providing not only legal representation, but also access to emergency shelter, transportation, and childcare.

(7) Research and studies have demonstrated that the provision of legal assistance to victims of domestic violence, dating violence, sexual assault, and stalking reduces the probability of such violence or behavior reoccurring in the future and can help survivors move forward.

(8) Legal representation increases the possibility of successfully obtaining a protective order against an attacker, which prevents further mental and physical injury to a victim and his or her family, as demonstrated by a study that found that 83 percent of victims represented by an attorney were

able to obtain a protective order, whereas only 32 percent of victims without an attorney were able to do so.

(9) The American Bar Association Model Rules include commentary stating that “every lawyer, regardless of professional prominence or professional workload, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer”.

(10) As leaders in their legal communities, judges in district courts should encourage lawyers to provide pro bono resources in an effort to help victims of such violence or behavior escape the cycle of abuse.

(11) A dedicated army of pro bono attorneys focused on this mission will inspire others to devote efforts to this cause and will raise awareness of the scourge of domestic violence, dating violence, sexual assault, and stalking throughout the country.

(12) Communities, by providing awareness of pro bono legal services and assistance to survivors of domestic violence, dating violence, sexual assault, and stalking, will empower those survivors to move forward with their lives.

SEC. 3. DISTRICT COURTS TO PROMOTE EMPOWERMENT EVENTS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter for a period of 4 years, the chief judge, or his or her designee, for each judicial district shall lead not less than one public event, in partnership with a State, local, tribal, or territorial domestic violence service provider or coalition and a State or local volunteer lawyer project, promoting pro bono legal services as a critical way in which to empower survivors of domestic violence, dating violence, sexual assault, and stalking and engage citizens in assisting those survivors.

(b) **DISTRICTS CONTAINING INDIAN TRIBES AND TRIBAL ORGANIZATIONS.**—During each 2-year period, the chief judge, or his or her designee, for a judicial district that contains an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) shall lead not less than one public event promoting pro bono legal services under subsection (a) of this section in partnership with an Indian tribe or tribal organization with the intent of increasing the provision of pro bono legal services for Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, and stalking.

(c) **REQUIREMENTS.**—Each chief judge shall—

(1) have discretion as to the design, organization, and implementation of the public events required under subsection (a); and

(2) in conducting a public event under subsection (a), seek to maximize the local impact of the event and the provision of access to high-quality pro bono legal services by survivors of domestic violence, dating violence, sexual assault, and stalking.

SEC. 4. REPORTING REQUIREMENTS.

(a) **REPORT TO THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—Not later than October 30 of each year, each chief judge shall submit to the

132 STAT. 2448

PUBLIC LAW 115–237—SEPT. 4, 2018

Director of the Administrative Office of the United States Courts a report detailing each public event conducted under section 3 during the previous fiscal year.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than January 1 of each year, the Director of the Administrative Office of the United States Courts shall submit to Congress a compilation and summary of each report received under subsection (a) for the previous fiscal year.

(2) REQUIREMENT.—Each comprehensive report submitted under paragraph (1) shall include an analysis of how each public event meets the goals set forth in this Act, as well as suggestions on how to improve future public events.

SEC. 5. FUNDING.

The Administrative Office of the United States Courts shall use existing funds to carry out the requirements of this Act.

Approved September 4, 2018.

LEGISLATIVE HISTORY—S. 717:

CONGRESSIONAL RECORD:

Vol. 163 (2017): Aug. 1, considered and passed Senate.

Vol. 164 (2018): July 17, considered and passed House, amended.

Aug. 15, Senate concurred in House amendment.

RESOURCES

Iowa Legal Aid: <https://www.iowalegalaid.org/volunteer-lawyers-projects>



Attorneys throughout the state help provide equal access to justice through the Iowa Legal Aid Volunteer Lawyers Project and the Polk County Bar Association Volunteer Lawyers Project. These projects involve approximately 3,400 volunteer attorneys serving an average of 2,000 low-income Iowans each year. The value of pro bono services from the private bar averages over \$2 million each year.



Opportunities to participate in volunteer lawyers projects around the state include:

- Accepting referrals on behalf of eligible clients (always with the prior approval of the attorney)
- Assisting with intake at Iowa Legal Aid offices
- Taking part in Continuing Legal Education Seminars on poverty law issues
- Contributing materials to probono.net/iowa
- Assisting pro bono clients at advice clinics and pro bono mediations
- Handling contested domestic abuse cases filed under Chapter 236
- Serving as an Emeritus Attorney ([more information can be found here](#))

<https://www.probono.net/iowa/>

probono.net/iowa



Polk County Bar Association Volunteer Lawyer Project:

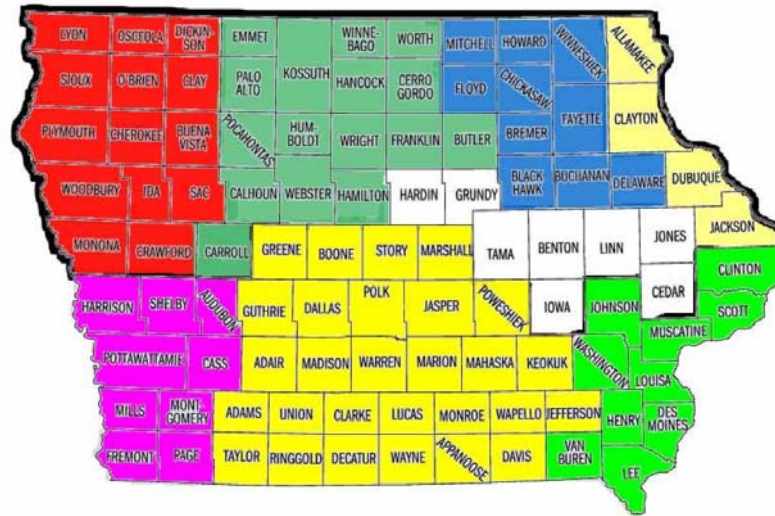
<https://www.pcbaonline.org/volunteer-lawyers-project/>

Resources for Indigenous Survivors and Empowerment (RISE):

<https://meskwaki.org/rise/>



United States Attorney's Office, Victim-Witness Services:



Northern District of Iowa

(Map: red, green, blue, white, yellow counties)

<https://www.justice.gov/usao-ndia/victim-witness-assistance>

Southern District of Iowa

(Map: magenta, bright yellow, bright green)

<https://www.justice.gov/usao-sdia/victim-witness-assistance>

Crime Victim's Rights

[18 U.S.C. 3771](https://www.justice.gov/eoir/18-u-s-c-3771)

Iowa Coalition Against Domestic Violence: <https://www.icadv.org/>

Iowa Coalition Against Sexual Assault:

<http://www.iowacasa.org>

ABA Commission on Domestic and Sexual Violence:

Provides training and other resources to enhance representation of victims and survivors

https://www.americanbar.org/groups/domestic_violence/

Victim Rights Law Center:

Civil remedies for victims and survivors

<http://www.victimrights.org/>

Legal Rights Center for Violence Against Women:

Improving representation in interstate custody cases

<http://www.lrcvaw.org/>

National Clearinghouse for the Defense of Battered Women:

Assistance for arrested, convicted, and incarcerated victims and survivors

www.ncdbw.org

National Strong Hearts Native Helpline:

Specific help for Native victims and survivors

www.strongheartshelpline.org

1-844-7NATIVE

National Indigenous Women's Resource Center

Working to end violence against American Indian, Alaska Native, and Native Hawaiian women and children

<https://www.niwrc.org/>

Alliance of Tribal Coalitions to End Violence

Increasing awareness and enhancing the response at tribal, state, and federal levels, and providing assistance to tribal coalitions and communities

<http://www.atcev.org/>

Tribal Law and Policy Institute

Development tribal laws and polices – including focus on domestic violence, sexual assault, and child abuse; providing resources, training, and assistance to Native tribes and justice systems

<https://www.home.tlpi.org/>



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Victim Witness Coordinators

September 3, 2020

Section Council

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Holly Elliott (US Atty.No.Dist.)	term expires 12/2020
Corinna Ray-Araujo (Linn)	term expires 12/2020
Chris Taylor (Black Hawk)	term expires 12/2021
Michelle Howing (Emmet)	term expires 12/2021
Cliff Cory (Hardin)	term expires 12/2022
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