

Pro Bono Institute CEO Talks In-House Work For Public Good

By **Melissa Maleske**

Law360, Chicago (March 23, 2017, 7:53 PM EDT) -- In-house pro bono programs can boost morale and build stronger teams, but corporate legal departments need to address a few unique issues before launching one, according to Eve Runyon, president and CEO of the Pro Bono Institute.

Runyon is also the former director of Corporate Pro Bono, a partnership between PBI and the Association of Corporate Counsel that provides resources and support to legal department pro bono efforts. She says the interest in formalizing in-house pro bono and identifying opportunities for legal departments and in-house counsel has grown tremendously in the past 10 to 15 years. In-house volunteers now are engaged in a wide range of pro bono projects, allowing them to take on broad and diverse work.

"There are challenges that are unique to in-house pro bono, but those challenges can be easily addressed," Runyon says.

Law360 spoke to Runyon about issues the law department should think through before launching a pro bono program and why doing so is a worthy endeavor.

Law360: What are the benefits of in-house pro bono?

Runyon: There are lots of benefits of pro bono: professional development, recruitment and retention, job satisfaction, employee engagement. In addition, for in-house pro bono, an emphasis on teamwork and morale is important and speaks to the value of pro bono because often within legal departments it is done in teams. It's a collaborative effort; it engages not just the lawyers but other professionals within the legal departments. It contributes to a well-functioning legal department.

How is in-house pro bono different in practice from law firm pro bono?

There are some practical challenges that are especially unique to in-house pro bono.

With regard to multijurisdictional practice, depending on where you live, states have different rules with regard to nonlocally licensed lawyers being able to provide pro bono legal services. For many legal departments, nonlocally licensed lawyers are a part of the legal team. States have adopted rules that allow those lawyers to work for their employer, but not all of those states have also allowed those nonlocally licensed in-house lawyers to engage in pro bono practice. That is a challenge that is especially troublesome for in-house lawyers and in-house pro bono. Four jurisdictions [Illinois, New York, Virginia and Wisconsin] have adopted provisions we consider to be model provisions, and they allow nonlocally licensed in-house counsel in addition to working for their employer to also engage in pro bono free from restrictions. There are other jurisdictions that allow these nonlocally licensed in-house counsel to engage in pro bono, but they put in place restrictions that limit the type of pro bono services those in-house lawyers can provide. ... Other jurisdictions make it practically impossible.

The reason this is particularly challenging for in-house legal departments is that the goal of an in-house pro bono program is to engage all members within the legal department. So

any type of barrier that prevents a segment of the legal department from participating limits that legal department's pro bono program.

A second issue is insurance. For many legal departments, they do not have insurance that would cover pro bono work by volunteers. It is not an obstacle that prevents in-house counsel from engaging in pro bono because there are lots of ways to secure insurance. But it's a practical issue that has to be addressed for most legal departments before they're able to create a formal pro bono program for their legal staff.

Some of the options are working in partnership with a legal services organization that has a policy in place that extends coverage to volunteers. Another option is having an endorsement or rider added to a policy that may already be in place. A third option is purchasing a policy that's specific to pro bono. And another option is to clarify that to the extent the department self-insures that the pro bono program applies and is covered.

How do in-house resources compare with law firms when it comes to pro bono?

There are not as many resources in support of what a department is able to do versus what a law firm is able to do. In-house pro bono is staffed differently than law firm pro bono. It's not unusual for a law firm to hire someone whose full-time responsibility is the management of the pro bono program. On the in-house side, that's unusual. Instead, you have lawyers and others within the legal department that are managing the pro bono program on top of their nine-to-five.

What kind of conflict-of-interest issues could come up for law departments engaged in pro bono?

In in-house departments, certainly direct conflicts or legal conflicts are always a concern in any type of legal representation, and that's true for pro bono — law firm pro bono and in-house pro bono. But for in-house legal departments, concerns around conflicts generally refer more to issues of positional conflicts, business conflicts or reputational conflicts, recognizing that the legal department is part of the company as a whole; making sure its pro bono representations are in line with the company's values and the company's business; and being very mindful of that in identifying pro bono opportunities for legal staff.

How have you seen departments partner with their law firms on pro bono?

There are many different ways that legal departments can partner with law firms or legal services organizations or even with other legal departments on pro bono. There are partnerships where the legal department and the law firm have agreed to come together on a particular day and provide staffing. For example, if there's a half-day clinic, then a law firm and a legal department can agree that they'll staff that clinic at the same time. There are opportunities where the law firm lawyers are working directly with the legal department lawyers on a project, so they're co-counsel. There are opportunities where the representation is divided, so if there's a research aspect as well as a litigation aspect, have the legal department manage the research while the law firm manages the representation. There are lots of different ways to partner. The key is to make sure expectations are defined from the start so that those partners understand what their roles are going to be moving forward, who's going to be responsible for what, how the representation is going to be managed, and making sure that there's constant communication to provide the best services to the client.

Does working together on something like pro bono benefit the law firm-client

relationship?

Absolutely, because what pro bono does is it highlights the values of the organizations involved, and it allows for those who are working on the engagement to deepen their relationship. By being able to come together around a pro bono assignment, the law firm and the legal department are indicating that they are aligned with regard to their values, and they're creating opportunities for their lawyers and legal staff to get to know each other better, which certainly improves the business side of their relationship.

Do you see law departments partner with their own corporate entities? Is there a way to meld legal department pro bono efforts with broader volunteer and philanthropy programs?

There's definitely an interest in thinking through what volunteerism looks like at a company as a whole, and there are lots of ways a legal department can integrate or align its pro bono program with the company's [corporate social responsibility] initiatives or philanthropic initiatives. It can be an alignment based on theme. Say for example that you have a company that supports survivors of domestic violence; the legal department can also create a program that supports those survivors. We also see legal departments work with their CSR departments to organize volunteer opportunities on volunteer days that the company has designated for all employees, so that's one way the legal department can complement what the company as a whole is doing. We also see legal departments that partner with their CSR department and provide pro bono representation to nonprofit organizations that the CSR department may be supporting or have some connection to.

How can a legal department get started if it doesn't already have a formalized program in place?

Usually departments start small. They launch programs in the offices where they have the largest concentration of staff. Even though a law department may not have someone whose full-time job is to manage the pro bono program, organizing a committee or identifying people who are responsible for developing and managing the pro bono program is important. Making sure that you include training and access to experts to ensure that your volunteers have the necessary expertise and are comfortable doing the work is a common practice. Looking for diverse opportunities for engagement is also important. This includes bite-sized pro bono engagements as well as longer-term opportunities. It includes transactional pro bono engagements as well as more traditional litigation-based pro bono projects.

Another thing that's key about in-house pro bono is the goal for most legal departments to engage all members of the department, not just the lawyers. Looking for opportunities that nonlawyers and other professionals within the legal department can participate in is very important for in-house pro bono.

This interview has been edited for length.

--Editing by Edrienne Su.