

Developing Attorney Referrals & Pro Bono Legal Resources in Your Community



Washington State A Guide Book for Sexual Assault Programs

Presented by the Legal Services Department of the WA Coalition of Sexual Assault Programs

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INTRODUCTION

The Washington Coalition of Sexual Assault Programs is pleased to provide you with this resource. For many sexual assault programs and sexual assault survivors, it is difficult and challenging to find appropriate attorney referrals and legal resources to help meet the needs of survivors of sexual assault.

This Guide Book is designed to provide you with practical tools to help you cultivate attorney referrals in your own community. Because each community is unique, developing relationships with legal providers in your community is crucial to responding to the unmet legal needs of survivors of sexual assault.

This Guide Book offers a variety of ideas about how to develop pro bono resources and attorney referrals. Some may be more appropriate for your community while others may seem less so. We encourage you to think of this resource as patch work quilt where different pieces may go together more gracefully than others –depending on the characteristics of your community and the landscape in which you have to operate. Thus how you go about cultivating pro bono resources and attorney referrals in your community will be directly connected to how you understand your community.

Lastly keep in mind that there is no one “right” way to developing pro bono resources and/or attorney referrals. The right way is the way the most greatly benefits survivors of sexual assault and meets the limitations of your programs. Finally remember that some, if not many of the cases you consider for referral will not necessarily be appropriate referrals.

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Introduction

If your agency is interested in developing attorney referrals and/or pro bono legal resources in your community for sexual assault survivors, it should be approached like any other program development work. Knowing what the need is in your community should inform how much effort you are able to put into developing your program. Knowing what resources are available in your community and appreciating the limitations that any program may have are starting points in this process.

I. Defining Pro Bono Resources & Attorney Referrals

A. Pro Bono Legal Services

What are pro bono legal services? Literally pro bono means for the good; used to describe work or services (e.g. legal services) done or performed free of charge.¹ In Washington under the Rules of Professional Conduct (RPC 6.1) it is referred to as Pro Bono Publico Service. Specifically the rule states that “every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year.

Pro Bono legal services are generally limited to person with limited means, e.g. those who cannot afford to hire an attorney, or for a charitable purpose. Therefore for individuals in need of legal services, one's eligibility to receive pro bono legal assistance is tied to one's income.

Legal Service Providers

Legal service providers - also commonly referred to generically as Legal Aid, are providers in Washington such as the Northwest Justice Project and Columbia Legal

¹ Black's Law Dictionary, Fifth Edition.

Services. Legal Aid is limited in that they may only provide legal services to person's who meet minimum income eligibility requirements. This is because these statewide non-profit legal entities are funded by the federal government and/or Legal Services Corporation, which have their own funding requirements related to legal service provision. The federal government sets income guidelines to ensure that Legal Aide only provides legal services to those with the greatest need, primarily for people who are poor.

Additionally, legal aid also uses an internal prioritization process to manage the overwhelming need for legal assistance. For example, in domestic violence cases, families with children take priority over domestic violence cases that do not involve children. Setting internal priorities is one of the ways legal aid manages its limited resources. Further, in addition to their internal prioritization process for determining which cases they may accept, they are also strictly tied to not accepting any cases where the client's monthly income is above the 125th percentile of the federal poverty income guidelines.²

Recently there have been changes in our statewide legal service delivery structure. Although the details will not be discussed here, the outcome is generally that the Northwest Justice Project will be the main provider of legal services throughout the State of Washington. Columbia Legal Services will only provide very limited legal assistance and become more of an impact litigation agency focusing on public policy issues. This 'restructuring' is a result of profound funding cuts to legal services.

B. Attorney Referral

Attorney referral generally refers to how you go about referring clients with legal needs to an attorney. This includes your referral network and how you define your referral

² Federal Poverty Guidelines

system. Also the term “attorney referral” is sometimes used to mask the word “pro bono.”³ Thus think about what you want to call your program. It may make all the difference.

Referring clients to attorneys or volunteer legal programs takes skill. The better you become at screening clients the more appropriate your referrals will be and the more likely the referral will benefit the client. One of the most important aspects of being able to successfully provide appropriate and meaningful referrals to clients, is appreciating what types of cases you should not refer. This means that you have to be able and willing to tell clients that you cannot assist them with their legal issues. This is very difficult because you will see a client with perhaps very complicated legal issues and you will not be able to help them.

The reality of pro bono legal services or attorney referrals is one that only some clients will truly benefit from. You will likely have clients that you believe are in need of legal assistance and these services will not be available to them or will not be appropriate for one reason or another. Understanding the limitations of what a pro bono program or attorney referral network may offer sexual assault victims in your locale will save you time, energy and resources.

1. Screening Tools

Assessing a client’s income is important in determining what referrals may be available to them. Additionally, and equally important is determining whether or not the issue is in fact a legal issue that needs to be addressed. This is not always an easy thing to determine.

³ Kentucky Association of Sexual Assault Programs refers to their pro bono program as an attorney referral program and reports that this type of masking seems to be more successful with respect to the recruitment and training of attorneys taking pro bono cases.

Determining Income

What is the client's gross monthly income? Is that from employment? Is it from SSI or spousal support? How many people live in the household that are supported by that income? Is it a mother with one child (answer is 2) or a mother with three kids but two are over 18?

These are the types of questions that need to be adequately answered before you can even consider what type of legal referral may be appropriate. There are a number of tools to help you assess this information and then determine whether or not the client is "income eligible" for other programs such as a volunteer legal program or legal services like Northwest Justice Project.

Legal Issue Spotting

Sometimes people will tell you they need legal services or an attorney. Just because someone tells you that - does not necessarily mean that is correct. Sometimes people think they need an attorney but they don't. Sometimes people think they need an attorney and perhaps they do – but what an attorney can do for them is not what they want. Legal issues are not always obvious. Sometimes they are subtle and can be difficult to identify when talking with a client.

There are a number of tools designed to increase your skills around interviewing clients specifically for assessing their legal needs. Once a client's legal issues are fully assessed, then you are in a much better position to determine what, if any legal referral, is the most appropriate.

C. Moderate Means Panel

Developing a moderate means panel in collaboration with your local bar association is potentially a great way to make sure that you can refer clients to trained attorneys at a reasonable rate. If your program or agency, particularly in collaboration with another agency, is capable of providing a training to the local county bar association on the issues you need assistance with, you are well on your way to establishing a pool of attorneys trained in the issues of sexual assault. By working in collaboration with your local bar association, you will also be able to foster effective relationships with the local legal services community.

Moderate means panels are particularly helpful for clients who often get stuck in the middle – their income is too high to qualify for pro bono or legal services but their income is too low to be able to afford an attorney. Sometimes people refer to moderate means as "low bono."

Generally a moderate means panel is group of attorneys that have agreed to take cases referred to them by certain entities, such as a rape crisis center, at a reduced fee. For example, if the attorney normally charges \$250 per hour if they are a member of the moderate means panel and have agreed to take referrals from your agencies, their reduced rate for clients may be an hourly fee of \$100 instead of their regular \$250/hour.

Some local county bar associations will already provide people with a list of attorney referrals. This generally is not any kind of special list but a general list of attorneys operating in that county that are members of the local bar. The advantage of developing a moderate means panel in collaboration with your local bar is that sexual assault survivors may be referred to these attorneys and you will feel more confident knowing that the attorneys on the list have been training in sexual assault issues and that their fee

will be reduced because the client was referred by your agency. Of course developing this type of system requires that your agency develop clear screening guides for minimum and maximum income eligibility.

II. Know the Lay of the Land

Throughout Washington there are a number of legal service organizations, providers, and programs. If you are interested in developing a pro bono legal panel or attorney referral program for sexual assault survivors that currently access your services – a good place to start is to know what already exists.

Generally throughout Washington the legal service providers such as Columbia Legal Services and the Northwest Justice Project operate out of seven different regions. The regions are generally defined by population. Thus in addition to the administrative offices, each agency likely has one office in each region.

It is advisable to determine what region you are in and where the legal service providers are located in relation to your program locale. For more rural communities the regional office that serves clients in your area may be very far away. If this is the case, it is even more important to connect with that regional office and obtain a good understanding of what types of cases they will provide assistance with. Otherwise referring clients to them can be a frustrating experience for you and the client. However making contacts at the regional office and developing a relationship with the attorney on staff affords your program access to an attorney who may be able to provide clients with legal advice although they may not be able to represent them.

Coordinated Legal Education Advocacy and Referral Line (CLEAR)

CLEAR is operated by the Northwest Justice Project. It is a statewide legal hotline where callers, who meet the income eligibility guidelines, can call and speak directly with an attorney and receive education, legal advice and on occasion a brief service.

CLEAR is a wonderful resource. It is unique and we are fortunate in Washington to have such a credible resource. It can be very difficult for clients to get through the line and they must be persistent in waiting to speak with an attorney.

- 1-888-201-1041 outside King County
- 1-206-464-1519 inside King County
- 1-888-201-9737 TTY
- 1-888-387-7111 if you are 60 years of age or older

Volunteer Legal Programs (VLP)

Volunteer Legal Programs exist all over Washington. These are programs either associated with local county bar associations or perhaps a legal service provider that have already cultivated pro bono attorney referrals for low-income eligible clients. They are often operated by volunteers and/or are minimally staffed. The VLP's are the first program, if one exists in your locale, to connect with and gain an understanding of what types of cases they accept. Attached is a list of all the statewide Volunteer Legal Programs. (See Exhibit D)

WA State Bar Association (WSBA)

Operating on a statewide level is the WA State Bar Association *Pro Bono & Legal Aid Committee*. This committee does not provide any direct pro bono legal services. However they have been very productive in getting the WSBA to adopt rules that encourage pro

bono service delivery. For example, they were successful in getting the Rules of Professional Conduct (RPC) 6.1 – Pro Bono Publico Service, amended. The amendment encourages lawyers to render at least thirty (30) hours of *pro bono publico* legal services per year, to voluntarily contribute financial support to organizations that provide legal services to persons of limited means and to **voluntarily** report *pro bono* services on the annual WSBA licensing fee statement. (See Exhibit B). Lawyers rendering a minimum of fifty (50) hours of *pro bono* service shall receive a recognition award for such service from the WSBA.

In general, the *Pro Bono and Legal Aid Committee* deals with questions in the fields of *pro bono* and legal aid, with respect to: supporting activities that assist volunteer attorney legal services programs and organizations, and encouraging *pro bono* participation, addressing the administration of justice as it affects indigent persons throughout the state, and cooperating with other agencies, both public and private, interested in these objectives. They have also successfully amended the MCLE Rules to award CLE credits for *pro bono* representation of low income clients and mentoring of *pro bono* attorneys. (See Exhibit C).

County Bar Associations

In addition to the WSBA and the state committee on Pro Bono and Legal Aid, many local bar associations help facilitate volunteer legal programs. It is important to know what services, if any, your local bar association offers to the community. Larger bar associations may sponsor training events or host volunteer legal programs. Small bar associations might just have a listing of local attorneys. Knowing what exists in your community and the relationships between providers is important to operating any successful program.

III. Identifying & Articulating the Needs of Sexual Assault Victims

Being able to identify and articulate what the broad legal needs of sexual assault victims are in your area is fundamental to establishing collaborative relationships and developing successful referral networks. Casting a large net is the best place to start in determining the true legal needs of survivors in your area. For example, reviewing the statewide legal needs survey at the back of this booklet is informative and will give you a more comprehensive picture of the general population's legal needs. Next, conducting a broad assessment of what your organization encounters and does not encounter is important.

For example, do you know what the legal needs are of your clients? How do you know? For some programs this may mean thinking much more broadly than just assessing what you already know. Sometimes the need is out there and because it hasn't presented itself to your program directly, it does not mean it doesn't exist. Perhaps a better question may be what don't you see in your program? Have you ever conducted a legal intake that goes beyond family law issues or criminal court? What are the legal needs of your program and/or agency? In providing follow-up advocacy, what legal issues do clients encounter?

These are just a few sample questions. The general idea is to step back from what you already know with respect to the legal needs of sexual assault victims and think broadly about what other legal issues may be present. By doing this, you open up the range and types of cases that may be referable. If you only have family law cases to refer to volunteer attorneys – it may be that no one will take those cases. But if you have identified a wider range of legal issues that need attention, you are also in a better position to access a wider range of practicing attorneys and potentially pro bono referrals.

In conducting your assessment of the legal needs of sexual assault survivors in your area, consider the statewide legal needs survey. Also talk with local legal service providers and find out what they see as the greatest need in your area. It is important to remember that many rape victims may be seeking legal services or accessing legal aid – but not necessarily disclosing that their legal issue has arisen from the sexual assault.

When conducting your assessment, try to get as specific as possible. For example, are you seeing clients that need specific help in dealing with Crime Victim's Compensation claims? Is the local legal aid office seeing clients that are having problems with HUD? Are you seeing situations where the client's privacy rights may be violated? Try to quantify the needs you identify.

IV. Program Development

Pro Bono Programs or Attorney Referral Programs can be rather simple or very sophisticated. It depends on the need you are trying to meet and the resources available to you. If you live in a densely populated urban area you are likely to have more clients that have legal needs. If you live in a more rural area you will likely have fewer clients with legal needs. Similarly if a more metropolitan area you may have access to more attorneys whereas in rural communities – your legal resources are more limited. However this is not to say that pro bono programs cannot thrive in rural communities and whither in urban ones. The key is understanding that there are many different ways to operating a program and that limited resources and time often translate into creative approaches and programming.

Staff Designation

Fundamentally there has to be someone on staff, preferably not a volunteer, who is designated to develop pro bono resources for your program. If no one has this responsibility, clearly it will not happen. If this is shared among different staff it can lead to confusion on the part of those you are trying to develop relationships with and appear as though the program is not well managed. The designated staff person is the one who would be doing most of the things suggested in this Guide Book. Program development often builds on itself. Once you establish one piece you are better able to move forward with another piece. Understanding this dynamic of program development is very important to pro bono and/or attorney referral program development.

Recruiting & Retention

Having designated a staff person to take on the program development piece, the tasks involved are relatively unchanging. Most programs will focus on recruitment and retention, training and support and some kind of evaluation. Having conducted an assessment of what the needs are of sexual assault victims in your area – you will have a better sense of what types of attorneys you would like to cultivate. Do you need family law attorneys or Immigration attorneys? Are there any in your area?

Generally with recruiting, you want to appeal to people's sense of greater good. That helping a rape victim with his or her legal problem is meaningful and important. Retaining those same attorneys has everything to do with how well you screen cases and refer cases to specific attorneys. The more thoughtful you are about case placement and screening of legal issues – the more likely attorneys will not be turned off with getting a difficult case. Also – you need to consider that attorneys may always so “no,” I can't take that case right now or I don't have the expertise – or I just don't want to. Remember the client is no worse off.

Training & Support

Another fundamental to retention of attorneys is providing them with training opportunities and support. Some attorneys will not have the people skills to handle a client with post traumatic stress disorder. Or they will not have the patience to listen to clients who get easily upset. These are expected issues. You should be aware of them and offer support to attorneys. Let them know how advocates can provide support to clients. Remember that because an attorney went to one or even two trainings about sexual assault, you will know vastly more about the subject than they do – and they may not necessarily remember all of what they learned at the training. Having annual training for attorneys about sexual assault is another way to support them. Also, finding creative ways to partner with other legal service providers may allow for more collaborative training events. Lastly, the Legal Services Dept at WCSAP provides training to attorneys – thus depending on the topic or area of law the attorneys in your area would like training on, think about contacting WCSAP for support.

Evaluation

For any program it is important to learn whether or not what you are doing is effective. Are client's getting their legal needs met? How many? How many could you not assist and why? Are the attorneys getting their needs met in order for them to continue taking cases? How do you know? A simple way is to consider conducting interviews with clients and attorneys about the experience, conduct client surveys, call attorneys and ask them a number of questions...keep track of why cases were not suitable and what cases seem to be suitable. Tracking this information will put you in a better position to seek funding to maintain the program and provide you with important information about what the legal needs are of sexual assault survivors in your community and how your community is responding to those needs.

V. Collaboration

Developing pro bono resources or attorney referrals is a great opportunity to collaborate with other people in your community. Making connections to the legal community will help the clients you serve. Because there are already a number of legal services that exist for low income people, (although not nearly enough), the fact that you may see folks who are not low income and can refer them to attorneys allows you more flexibility in the community. You may refer paying clients with important legal cases and or low income clients with important legal cases. Knowing what exists in your community and what exists on a statewide level provides you with context and a framework for how to go about meeting the legal needs of sexual assault victims in your area.

The goal of any program is not to re-invent the wheel, but to build on what is already established. This is true for developing intake forms to referral procedures to how you document what you do.

VI. Resources

There are a number of legal resources available – most of them are the internet. If you are not currently familiar with the Northwest Justice's Project's website and their self-help resources, please review their web page at www.nwjustice.org. They are many very well written legal documents on a wide range of legal issues in a variety of legal issues. It is an amazing resource that provides meaningful legal information.

The WCSAP legal web page, although currently is in the process of being revised, will have a number of legal resources specifically related to sexual assault. www.wcsap.org Additionally WCSAP legal staff is specifically funded to provide support and training to attorneys representing sexual assault victims. WCSAP has the capability of assisting

attorneys in drafting legal arguments, and documents and providing research to attorneys working on cases related to adult sexual assault.

VII. Attachments

Exhibit A	PRC 6.1
Exhibit B	MCLE Amendment
Exhibit C	Statewide Civil Legal Survey
Exhibit D	List of Statewide Volunteer Legal Programs
Exhibit E	Federal Poverty Guidelines
Exhibit F	<i>Civil Legal Needs of Sexual Assault Victim, article</i>