

# Pro Bono Legal Advice for Pro Se Clients

by Stephen R. Jordan

*A woman enters the State Law Library of Montana. Her body language is uneasy. She has a bewildered look as she stands before rows and rows of books. I approach her and ask if I can help.*

*With a mixture of hope and frustration in her eyes and voice, she tells me her story. "I need a divorce. I want to keep my daughter and have my husband pay child support. I want to know what the law is. I can't afford an attorney, and I haven't a clue how to go about any of this." "Well," I say, "let me show you some sources that might be useful." After showing her the Montana Code Annotated, the rudiments of how statutory law and case law operate, pointing out Black's Law Dictionary, and handing her a large notebook full of family law forms tailored for Montana law, I walk away, muttering to myself, "She's probably more confused now than when she came in."*

**T**he significant rise in self-representation ... the urgings and exhortations from the American Bar Association and state bar associations for increased pro bono service—rare is the law library that is not affected to some degree by these symbiotic issues. We certainly are. As a result, we have developed a program to address them: the Law Library Legal Advice Clinic.

Around a year ago, Judy Meadows, our director, was in a conversation with an assistant attorney general who was co-chair of the Access to Justice Committee of the State Bar of Montana. In the course of the conversation, Judy explained the restrictions placed on her staff in providing reference assistance, and the assistant AG spoke about how he was looking for a new project for his committee. The thought arose of seeking the participation of state attorneys in pro bono service for the self-represented individuals who use our library. A task force was then created to explore the idea. In addition to Judy, the assistant AG, and myself, other members included representatives from the governor's office, the state bar, the local district court clerk's office, and the Montana Legal Services Association.

Over the next several months, many questions arose. Which legal subjects will the clinic cover? Are there any administrative concerns involved in state attorneys assisting self-represented individuals in state buildings? How will the attorneys receive clinical training? What about logistics? How is interest among the attorneys built? What are the eligibility requirements for someone to receive assistance from the clinic? Will the attorney appear in court with the lay person? What about malpractice insurance?

Without question, the predominant topic that lay people seek information on is family law. Although we get a healthy number of questions on topics such as bankruptcy, consumer law, employment law, and landlord/tenant law, it was decided for the clinic to initially concentrate solely on family law with the hope that other areas can be addressed in the future.

State policy prohibits state attorneys from performing pro bono service in their offices; however, the law library is not affected by this prohibition. Given this, and coupled with its convenient location in the capitol complex, the library is a natural site for the clinic. Another state policy mandates that state attorneys cannot provide pro bono service on state time. They must use either vacation time, compensatory time, their lunch hour, or come in on Saturdays.

State attorneys were invited to a noon-hour information session with a question and answer period following. The importance of the clinic was symbolized by the presence of two justices of the supreme court, the attorney general, and a district court judge.

Since state attorneys do not practice family law, clinical training is essential. The training, which is conducted by Montana Legal Services, provides both substantive family law and forms. In addition, it stresses that the clinic is an advice-only clinic—i.e., the attorneys will not appear in court. In this regard, a limited retainer agreement is signed by the attorney and the self-represented individual.

Federal poverty guidelines serve as the basis for determining whether one is eligible for assistance. And the concern over malpractice coverage is met by the umbrella policy of Montana Legal Services.

The process works as follows. I conduct the intake interview. I begin by explaining the nature of the clinic, its parameters, and that financial means determine eligibility for one to receive advice. Then, I ask questions about the person's finances. If the guidelines are clearly exceeded, I wrap up the interview and provide normal reference assistance. If the person is clearly eligible, or if I am uncertain about this (determination is made by Montana Legal Services), I continue with the interview by asking questions concerning what the person is seeking, the current domestic situation, children, debt, life insurance, personal property, real property, whether any court papers have been served, whether the opposing party has retained an attorney, and the like. This information is placed in a file for the attorney.

I close the interview by informing the person that once eligibility is determined, I will notify her or him of the decision. If eligibility is met, I schedule an appointment for our conference room where the attorney and the self-represented individual will be assured of privacy. When children are present, we have children's books and toys to occupy them.

The self-represented individual can learn of the clinic in a number of ways: the district court clerk's office, Montana Legal Services, word of mouth, the public library, and by simply entering the law library. Also, an article in the local newspaper on pro bono service has publicized the clinic.

The clinic has been a rewarding experience for me. To be the point of contact for interviewing and for scheduling appointments, to see the benefits for both the attorney and the self-represented individual, and to receive their feedback, is all very satisfying. And on a broader plane, to be part of a process involving our library and representatives from the legal community working together to achieve a common goal is enhancing for us all.

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