

**Report of the Task Force's Working Group
on Law School Involvement**

REPORT OF THE LAW SCHOOL WORKING GROUP TO
THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES¹
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The ethic of public service is an important part of the missions of the fifteen law schools in New York State. As the Dean of the University of Buffalo Law School, Makau Mutua, stated in testimony before New York Chief Judge Jonathan Lippmann on October 6, 2011:

Law schools have a crucial role to play in educating socially conscious lawyers. My own belief is that the law sits at the intersection of power and powerlessness, not in a vacuum. That is why law schools have an obligation imbue in law students empathy, social consciousness, and values that emphasize concern for the most vulnerable members of society.

Law Schools do a lot to inspire and prepare their students to perform public service while they are in law school and after graduation, whether as fulltime public interest lawyers or pro bono practitioners. Faculty members and administrators also contribute significantly to closing the justice gap in New York through their scholarship, centers and pro bono service. This report focuses on the law schools' engagement of students in hands-on work to address real needs and on their provision of material support for social justice work. It is based on responses received from thirteen of the schools to a request for information that the committee sent to all of the schools in New York State. Recommendations for future work conclude the report.

LAW SCHOOL PROGRAMS THAT ADDRESS THE "ESSENTIALS OF LIFE"

Experiential Learning Programs

Experiential learning, the study of law and lawyering in context, is a key facet of legal education in the upper-years. Working with real clients who have real problems under professorial supervision and for academic credit allows law students to begin the process of becoming thoughtful, responsible, and reflective lawyers. Clinics and externships are different in some fundamental ways, but they both combine a deep study of doctrine with practical experience that serves graduates well. The justice mission is accomplished through a primary focus on representing indigent clients, non-profits, and underserved communities and issues. Clinics and externships throughout New York provide students with a wide array of choices in regard to issues, lawyering techniques, and practice settings.

The classifications "clinic" and "externship" vary from school-to-school so only a generalized

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definition is possible. In clinics students usually work under the supervision of a fulltime faculty member who is an expert in the field of practice and also teaches the seminar portion of the class. Pedagogically, clinics maintain a small caseload and student to faculty ratio in order to intensively teach students through multiple opportunities for supervision, reflection and feedback. Externships also provide opportunities for students to tackle the legal problems of real clients while gaining theoretical and practical knowledge of the underpinnings of their work but students work under the supervision of practicing lawyers, usually at a public interest organization, government agency or court. Working side-by-side with practitioners, students also learn what lawyers confront and achieve in real work places. Most schools combine multiple varied field placements with a seminar on legal practice. At a few schools, the seminar and field component are closely related to a single theme about a legal issue or workplace. The seminars may be taught by full-time fulltime faculty members or by adjunct faculty, often in connection with field placements at their workplaces.

Often working in collaboration with legal services providers and other public interest legal organizations, law school clinics and externship provide substantial legal assistance to poor New Yorkers regarding the “essentials of life,” including housing, family stability, health care, education and employment, benefits and consumer protection. The few pages of this report can provide only an overview that gives a sense of their creativity, breath and depth.

Housing

The nine housing-related clinics in the state address diverse legal issues through varied means. For example: The Housing Rights Clinic at Cardozo and Fordham Law School’s Housing Clinic represent tenants who are facing eviction, in non-payment and holdover proceedings. Clinics at Albany and Touro focus on the more recent foreclosure crisis. The Affordable Housing Clinic at Buffalo works with local organizations to create desperately needed housing for elderly, disabled and homeless people. Working in collaboration with the New York City Civil Court, Columbia’s Lawyering in the Digital Age Clinic has begun to develop an online, automated system for tenants’ response to eviction proceedings for tenants who face eviction without the hope of obtaining a lawyer. Housing also arises in clinics that are not specifically housing focused. For example, students in the Medical-Legal Advocacy Clinic at NYU assist on a range of issues that impact on health, including housing. Several of the Community Economic development clinics work on the lack of affordable housing or housing conditions cases. For example, New York Law School’s Justice Action Center’s Economic Justice Project participates in advocacy, writes reports, provides training and technical assistance to community groups interested in using the Community Reinvestment Act and Home Mortgage Disclosure Act to promote economic development in their neighborhoods.

A majority of law schools have externships that specifically address housing issues or general field placement courses in which students work at not-for-profits or government agencies that focus on an aspect of housing for low-income New Yorkers. These include Buffalo students’ work with the Buffalo Neighborhood Stabilization Company through its Community Group Legal Externships and CUNY’ work with the New York State Courts’ Access to Justice Program. In Brooklyn’s Transactional and Community Development Externship, students work with

organizations that provide direct services to tenants. Many externships place students at legal services providers, which provide most of the housing legal support in the state. Other students work on land use and housing policy projects. Students in externships on other topics learn that their clients frequently need housing assistance. For example, students in Brooklyn's Health Law Externship who work at the New York Legal Assistance Group often work on housing.

Family Stability

Twelve law schools have clinics that work on a wide array family law matters. Several involve the representation of children such as Brooklyn's Children's Representation Clinic, which is done in conjunction with the Children's Law Center, in which students represent children in Brooklyn Family and Supreme Court. Columbia's Child Advocacy Clinic focuses on children in foster care, particularly those who are aging out of the system. Cornell's Child Advocacy Clinic combines representation of children in family court with a cross-disciplinary focus such as working with other professionals and using social science to assist clients. Advocating for disabled children is the mission of Fordham's Family Advocacy Clinic focuses on special education and other needs. At Hofstra, students advocate in New York City and Nassau Family Courts on behalf of children in cases where the allegations range from physical and sexual abuse to educational neglect, abandonment and inadequate supervision. NYU's Children's Rights Clinic places students at one of four not-for-profit organizations that provide civil legal services to children.

Other family law clinics include NYU's Family Defense Clinic, where students examine child welfare policy and practice with particular attention to preventing the unnecessary break-up of indigent families and assisting separated families to reunite by representing parents and relatives of children who are in or at risk of foster care placement. Cardozo's Divorce Mediation Clinic was a response to a call by the Office of Court Administration for help in expanding its mediation services to resolve the large backlog of cases. Columbia's Prisoner's and Families Clinic assists incarcerated parents navigate the family court and welfare systems and has worked with the Center for Appellate Litigation's Family Initiative on post-release workshops.

At least six New York law schools teach students and provide legal services on family matters through externships (some of which are called clinics but operate as externships). Students in Albany's Family Violence Litigation Clinic represent victims of domestic violence in Albany, Rensselaer, and Schenectady counties in cases that include family offenses, custody, child support, and child neglect proceedings related to domestic violence. Buffalo's Women, Children and Social Justice Clinic place students in governmental agencies, legal services providers, law enforcement agencies, social services agencies and community outreach programs throughout Western New York. The Attorneys for Children Externship at Cornell assists lawyers at the local Attorney for Children office in abuse and neglect cases, juvenile delinquency proceedings and Persons In Need of Supervision cases.

Access to health care and education

Several law school clinics have health care at their core, even if they are not the clinic's exclusive subject matter. The Health Law Clinic at Albany serves the legal needs of clients with HIV/AIDS or Cancer. Cardozo's Bet Tzedek Clinic represents dozens of elderly and disabled people seeking health, disability and housing benefits. Prisoners who are clients of the Consequences of Mass Incarceration Clinic at Columbia often have legal needs involving their medical care or disabilities. New York Law School's Elder Law Clinic teaches students about working with guardianship issues as well as Health Care Proxy drafting. Students in Pace's Disability Rights Clinic advise and represent disabled and elderly clients in a variety of transactional matters such as wills, living wills and health care proxies and on administrative proceedings and civil cases in federal and state court on matters such as denial of access to health care, Social Security Disability benefits, Medicaid and Medicare, special education needs and guardianships.

Externships also focus on health issues. At Cardozo, the Health Care Reform Field Clinic places students with high-profile health law offices to assist low-income New Yorkers as they navigate the health system by litigating Medicaid and Medicare benefits claims and appeals, providing senior assistance on drug plans, as well as researching and writing in support of impact litigation. Albany's field placement program includes placements at Disability Advocates, the NYS Temporary and Disability Assistance office and Mental Hygiene Legal Services.

Employment, Benefits and Consumer Protection

About ten schools have clinics that focus on the economic needs of poor and low-income New Yorkers such as wages, benefits, taxes and consumer debt. For example: Cardozo's Labor and Employment Clinic works with low-income workers on wage and hour claims, collective bargaining, unemployment insurance claims and other problems. Cornell students advise and may represent labor unions in its Labor Law Clinic. CUNY's Economic Justice Project helps about 100 CUNY students a year at contested welfare hearings that often concern regulations that imperil their ability to remain in school. NYU's Law, Organizing and Social Change Clinic works with Make the Road by Walking, including on cases of day laborers whose employers did not pay them. Albany, Cardozo and Touro have Low-Income Taxpayer Clinics. Fordham's clinic combines Tax and Consumer Law Litigation. In Brooklyn's Consumer Counseling and Bankruptcy Clinic, students work under the supervision of faculty members to assist low-income debtors who are considering bankruptcy or with practitioners on pro bono bankruptcy cases. They assist low-income workers with unemployment claims Brooklyn's Employment Law Clinic. Touro's Veterans' and Servicemembers Rights Clinic counsels about debt relief and reemployment rights, among other matters.

Other clinics work on community economic development projects and with small businesses to bring economic opportunities to low-income neighborhoods and individuals. Buffalo's Community Economic Development Clinic has a particular emphasis on child care policy and helping low-income families build assets. Columbia's Nonprofit Organizations and Small Business Clinic primarily represents community groups that work with low-income populations. CUNY's Community Economic Development Clinic works with about sixteen community

organizations on a wide range of issues and is discussing ways to help address the need for legal assistance in wage and hour cases. NYU's Community Development and Economic Justice Clinic partners with the Urban Justice Center to provide transactional and litigation services to grass-roots community groups and their members.

Among the few externships that address these economic issues are Cardozo's Consumer Debt Protection Field Clinic and Columbia's Community Development Law Externship.

Elder Law Clinics and Externships

Several schools have clinics that represent senior citizens on multiple "essentials of life" issues, among others, that are related to aging and incapacity. For example: CUNY's Elder Law Clinic works primarily in the areas of adult guardianships, estate and incapacity planning, and government benefits. New York Law School's Elder Law Clinic focuses on guardianships. Touro's William and Mary Foster Elder Law Clinic provides services through an agreement with Legal Services for the Elderly, Disabled or Disadvantaged of Western New York.

Pro Bono Student Projects That Address "The Essentials of Life"

In addition to classes for which they earn academic or clinical credit, students throughout New York State perform valuable legal assistance to low-income New Yorkers through pro bono service, which is voluntary at all schools and mandatory at a few. Many law schools have an administrative or program office that initiates, promotes and oversees law student pro bono. Although some pro bono service is done by individual student volunteers at legal services providers, much is done through group projects that train students together and coordinate their work. These frequently are joint ventures with public interest organizations and, on occasion, private law firms that are created by faculty or administrators at a law school (or several law schools working together) and, sometimes, student groups. Students often work in teams under the supervision of lawyers who are experts in their fields, including practitioners, faculty members and administrators. Student pro bono ranges from the global to the local and touches upon almost every conceivable legal topic. However, almost every school has significant projects that address the "essentials of life." Some of them are described here.

Housing

Through the New York City Civil Court's Housing Resolution Assistance Program, students at a number of New York law schools receive training to assist unrepresented tenants and owners/landlords, who are appearing in the Resolution Part of Housing Court as parties to nonpayment proceedings. Students in this program are assigned to one pro se litigant at each session to ensure that tenants or unrepresented landlords are aware of their rights, are not badgered by the other party, and do not sign stipulations in court that they do not fully understand.

At least seven schools have pro bono projects that address housing issues including evictions, housing conditions, foreclosure and the insufficiency of affordable housing. These projects usually are done at or in collaboration with legal services providers, bar associations and courts.

They include, but are not limited to: Brooklyn's NYCHA Tenant Eviction Prevention Project and its Homeless Appellants Project, Cardozo's Resolution Assistance Program in Housing Court, Columbia's Tenants Assistance Project, Fordham's Housing Advocacy Project and its Research Education and Advocacy to Combat Homelessness project, Pace's Mortgage Foreclosure and Predatory Lending Litigation Defense Project and Touro's Pro Bono Foreclosure Project, which is done in conjunction with the Suffolk County Bar Association.

Family Stability

Almost all schools have pro bono projects that provide assistance to children and families. The projects at ten New York City Schools are under the aegis of the Courtroom Advocates Program (CAP), which also has six legal services agencies in its consortium. CAP recruits, trains, supervises and mentors law students throughout New York City to fill the gap in advocacy, education and services in New York City's Family Courts. The most common projects involve domestic violence issues such as orders of protection, the Violence Against Women Act that protects immigrant women, child custody and support cases and uncontested divorces. Albany Law School students volunteer at the Albany County Family Court Help Desk to assist the Albany County Bar Association. In its Pro Se Divorce Clinic, Albany students are trained by the Legal Aid Society of Northwestern New York and then provide assistance to low-income individuals. Student volunteers in St. John's LIFT Project staff the family law information hotline operated by Legal Information for Families Today to provide legal information for vulnerable families struggling to make their way through the complex court system.

Health and Education

In the past few years, student pro bono projects about education have increased dramatically. Often founded and staffed by students who were classroom teachers through Teach for America and other programs, they address special education (e.g. Pace), school suspensions (e.g. at Brooklyn, NYU and Pace) and charter schools (Columbia). Fordham's student Health, Education Advocacy and Law Society creates and oversees pro bono projects.

Employment, Benefits and Consumer Protection

With chapters at Columbia, Cardozo, Hofstra, New York Law, Fordham, and NYU, the Unemployment Action Center is a nonprofit, student-run corporation that recruits and trains students to provide free representation on a volunteer basis to unemployment insurance claimants before administrative law judges and, when necessary, on appeal to the Unemployment Insurance Appeals Board. Albany provides unemployment claims assistance through its Economic Justice Project done in conjunction with the Legal Aid Society of Northeastern New York.

The Volunteers for Income Tax Assistance program is affiliated with the Internal Revenue Service and has been in existence for more than 30 years in many different schools in the United States, including Brooklyn, Cardozo, Hofstra and Touro. VITA offers free tax aid to people who cannot afford professional assistance. The VITA program provides students with the necessary training.

Other law student pro bono projects include Columbia's Low-income Tax Representation Project, consumer rights projects at Fordham and Pace, and NYU's Debtor's Rights Project.

LAW SCHOOL SUPPORT OF STUDENTS AND GRADUATES DOING PUBLIC INTEREST

Law schools commonly provide financial support to their students and graduates who do public interest work, often on behalf of poor New Yorkers. Although there is a wide range among the schools as to the number of students served and the amounts paid, these programs fall into similar categories. Summer funding allows first and second year students to work fulltime for 8-10 weeks at public interest and public service organizations that cannot afford to pay their interns. Student groups often raise money to supplement these stipends. Several schools provide scholarships to students who commit to doing social justice work after graduation. Some schools provide fellowships to their recent graduates to do social justice work. These often are funded by a specific law firm. Loan Repayment Assistance Programs assist graduates doing social justice work with the heavy debt burden of obtaining a law school education by becoming secondary lenders and then forgiving that debt in increments until full forgiveness is reached when the graduate has remained in public service for a specified period of time.

CUNY Law School's Community Legal Resource Network is a collaborative with more than 300 CUNY graduates in solo or small-group practice who serve the poor and disadvantaged in communities underserved by lawyers. They share information, mentor one another and provide other support. CUNY's Incubator for Justice, an expansion of CLRN, trains CLRN members in best business practices and in emerging and pressing subject areas such as immigration, labor and employment.

Pace plans to open its Center for Low Bono in fall 2012 to enable its recent graduates to represent low income people and community organizations. Analogous to a medical school residency, experienced attorneys will supervise participants in the program as they embark on their first experiences as attorneys representing clients. The Center will also provide participants with tools necessary to create, develop and sustain viable solo practices.

Touro Law School's William Randolph Hearst Public Advocacy Center houses twelve non-profit public interest legal advocacy organizations. The public advocacy wing of the law school fosters active engagement between the clinics and PAC tenants - creating a public interest community that has already expanded opportunities for students and services to the community. Affiliate members enjoy many of the benefits of the PAC but are not housed within the law school.

RECOMMENDATIONS

As this report shows, law schools are an important part of the matrix of organizations that provide social justice legal representation in New York State. They also are committed to exploring how they can best participate in the expansion of access to civil legal services.

We recommend that a Leadership Conversation on Law School Contribution to Filling the Justice Gap be convened in the first half of 2012 at which law schools and other important stakeholders, including legal services providers, the courts and law firms could engage in a frank exchange of views and work together on common plans for tangible results. Conferees should focus on the urgency of the need and think creatively about how law schools can use their resources appropriately to contribute to solutions alone or in collaborations.

We hope information in this report will inform law school faculty, administration and students about what their colleagues are doing and encourage them to think about which initiatives might serve as models for new programs at their own schools.