2017 KEY RECOMMENDATIONS TO THE PERMANENT COMMISSION

1. Law Schools and Legal Services Providers Should Work Together to Ensure a Robust and Strong Pipeline of Students into Civil Legal Services Work as Increased Public Allocations to Fund Immigration and Housing Work Provide New Opportunities for Law Students and Graduates.

Governmental funding for civil legal services, with increased allocations for immigration work statewide and housing work in New York City, has expanded the number of public interest and civil legal services positions for law graduates. Law schools are encouraged to facilitate a strong law student and graduate recruitment pipeline for these civil legal services positions by providing curricular, clinical, externship and experiential offerings that are infused with access to justice principles, including cultural competency skills and values trainings that teach students how to represent diverse populations.

2. The Permanent Commission Affirms Prior Recommendations, Encouraging Law Schools to Continue and Expand Access-to-Justice Efforts:

   a. Law schools should teach students about institutional and structural factors that perpetuate poverty across curricular, clinical, externship and experiential offerings.
   b. Law school instruction should emphasize the importance of coalition building, community collaboration, diversity training and storytelling.
   c. Law schools should continue to encourage student involvement in community social justice initiatives that promote access to justice and access to democratic processes projects, e.g. “Know Your Rights” trainings and voter protection initiatives.
   d. Law schools should continue to explore ways to recruit students from diverse populations and incorporate flexible admissions criteria.

3. The Law School Conference Should Continue to be Convened Annually and Be Supported by the Statewide Law School Access to Justice Council. Consideration Should Be Given to Ways to Increase Law Student Participation at the Conference.

4. The Statewide Law School Access to Justice Council Should Continue its Work to Enhance Collaborations Among the Law Schools on Access to Justice and Access to Democratic Processes. It Should Also Promote Student Involvement in Public Interest Work Responsive to Current Events, such as Environmental and Political Crises, Disaster Relief, and Deferred Action for Childhood Arrivals (DACA), that Implicate Essentials of Life Issues.
Overview of the Sixth Annual Law School Conference

The Sixth Annual Law School Conference was convened by the New York State Permanent Commission on Access to Justice (Permanent Commission) on May 18, 2017 at St. John’s University School of Law. Each year, the conference draws together deans, administrators, professors, law students, including Pro Bono Scholars, legal services providers, and members of the bench and bar, to discuss access-to-justice issues.1 This year’s 160 attendees heard opening remarks from the Chair of the Permanent Commission, Helaine M. Barnett, the Dean of St. John’s University School of Law, Michael A. Simons, and the Chief Judge of the State of New York, Hon. Janet DiFiore, describing the important role New York’s 15 law schools and law students have in ensuring access to justice in our State.2

Dean Simons observed that the essential role of law schools is to instill students with a commitment to improve the legal profession and assure meaningful access to justice. In educating students to be lawyers, law schools must nurture the value of “access to justice.” It is imperative that law schools teach students about access to justice by imparting the requisite knowledge, skills and experiences to serve people in need. Noting that New York’s Chief Judge is a graduate of St. John’s University School of Law, Dean Simons introduced Judge DiFiore, whose “compassion for the poor and powerless” defines her career.

Chief Judge DiFiore commended New York’s law schools for their leadership and dedication in expanding access to justice, particularly as shifts in governmental policy and regulations have demanded rapid responses to aid individuals and families confronting immediate challenges to the essentials of life. The Chief Judge remarked that the current climate presents new public interest opportunities for law students and optimism about the future of the legal profession.

Next, Fordham Law School Dean Matthew Diller, Chair of the Permanent Commission’s Law School Involvement Working Group, which coordinates the annual conference and organizes its planning committee, introduced the morning plenary session “Access to Justice in the Courtroom and Beyond: A Conversation About How Law Schools Enhance Access to the...
Democratic Process for Low-Income New Yorkers.” Access to justice is often thought of as meaning access to courts. Clearly, the right to be heard in a courtroom when the fundamentals of life are at issue is key, but the broader underpinning is access to the basic institutions of a democratic society – a right to be heard in all our democratic processes. Dean Diller stated that civil legal aid is at a critical juncture, and that even while the existence of the Legal Services Corporation (LSC) is threatened in Washington, many positive developments are occurring at the state and local levels.

Our local and state governments have embraced access to justice as a matter of policy by allocating dedicated resources to fund civil legal services, creating greater opportunities for participation. On campuses, law students are motivated to propel change and have increased their activism. The plenary panelists are leaders in civil justice who nimbly navigate the shifting political climate and are prepared to discuss how the civil justice community can promote access beyond the courtroom. Law schools can teach students to be effective advocates for individuals and communities unfairly disadvantaged by governmental actions and policies. Student advocacy can in turn encourage those individuals and communities to participate in the electoral, legislative and administrative processes and to foster community decision-making through collaborations. Dean Diller introduced the panelists: Martha Bergmark, Executive Director of Voices for Civil Justice; Sarah Ludwig, Founder and Co-Director of the New Economy Project; Janai Nelson, Associate Director-Counsel of the NAACP-LDF; and, Zephyr Teachout, Professor of Law, Fordham University School of Law.

Morning Plenary Session

To begin, Dean Diller asked Ms. Ludwig how financial justice impacts access to justice. Ms. Ludwig responded that her not-for-profit, the New Economy Project, empowers disadvantaged communities to tackle legal challenges related to the unfair banking and lending practices of certain financial institutions and corporations. Ms. Ludwig stated that economic inequality creates a disparity in policy and decision making, depriving poor people of access to justice and democratic processes that can only change if the financial system is transformed. Law schools can incorporate the history of social movements into the curriculum to give students historical and political context to understand that it is systemic change, not just changes in poverty circumstances, that is necessary for justice to be realized. Examples of large-scale institutionally driven practices that perpetuate inequality and poverty include ecological issues in impoverished communities, such as the poisoned drinking water in Flint, Michigan, and predatory lending schemes that have resulted in high levels of credit-based defaults in targeted zip codes.

Dean Diller turned to Ms. Nelson, inquiring whether the structural changes suggested by Ms. Ludwig implicate the political process and how the political process implicates access to justice. Access to the political process is fundamental to access to justice, Ms. Nelson explained, and when people are excluded from voting, their voices cannot be heard and their interests are not represented. Individuals with access to the political process decide who governs and metes out justice. Quite simply, if segments of the population are denied access to the ballot, public policy and juries are not reflective of the entire community. Ms. Nelson stated that law schools are uniquely positioned to educate and encourage students to engage in democratic and political processes, participate in legal services programs, perform public interest work and run for office to influence policy and law.
As a former candidate for elective office, Professor Teachout remarked that law students can educate candidates – and elected representatives — about access to justice and how certain policies can promote – or diminish access. This is appropriate and sometimes uncomfortable, she noted, but it is incumbent upon the civil justice community and law schools to foster understanding of the concepts of justice. Ms. Teachout encourages students to run for office or work for a political campaign as viable ways to engage in the political process. Further, Professor Teachout emphasized the critical importance of systems analyses to assess the impact on access to justice. Structures exist within government that induce racial and economic anxiety and limit access, as detailed by Ms. Ludwig and Ms. Nelson. Professor Teachout identified law schools as natural countervailing institutions that can preserve access to justice and should rightly be at the forefront of all efforts to protect our democratic values, through instruction and experiential learning opportunities.

Engaging in the political process is one way to effectuate systemic change and ensure access; another way is communication. Voices for Civil Justice promotes the value of civil legal aid for society by explaining what access to justice means for individuals and their communities. Ms. Bergmark views communication as a central agent of change, pointing to the citizen activism, including that of law students, that powered relief efforts in response to Hurricane Katrina. Ms. Bergmark views this as an example to deliver the “message” of the importance and impact of civil legal aid. Voices for Civil Justice generates media coverage to show how legal aid in the civil justice system promotes access and fairness, particularly in times of crisis. The proposed federal funding reduction for legal aid would disproportionately impact low-income communities, contracting access to justice. A powerful tool to promote the value of legal aid is storytelling, which can be taught in law school, for example, in a trial advocacy course. Lawyers are advocates and compelling stories define a case. This type of advocacy should underpin media advocacy about civil legal aid.

Dean Diller concluded the plenary session, remarking that understanding how democratic processes and governmental structures intersect will provide students opportunities to participate, expand access and influence change in ways that are meaningful to them and to society.

**Mid-Morning Briefings**

New to this year’s Conference agenda was the mid-morning briefings on (1) Funding Legal Services Corporation: Reflections and Projections; (2) the Permanent Commission’s development of a Strategic Action Plan to provide effective assistance for essential civil legal needs to all income-eligible New Yorkers, and (3) the impact in communities from the Legal Hand neighborhood storefront centers.

Alexander Forger, Permanent Commission member and former President of LSC (1994-1997), traced the history of LSC from its early roots in the 1960’s War Against Poverty as the legal arm of the Office of Economic Opportunity, to its establishment in 1974 with a $90 million budget. Mr. Forger described the turbulent years, when spending cuts threatened its existence, to the celebration of its 20th anniversary at the White House in 1994, to the present. Shrinking federal resources and the escalating demand for assistance from besieged individuals to respond to threats to civil liberties exacts a heavy toll on legal services providers. Mr. Forger identified the lack of a unified, vocal constituency to communicate the importance of civil legal aid.
services lawyers and the value of civil legal aid to American society in meeting the constitutional guarantee of access to justice for all as a significant drawback for LSC.

As of the Conference day, Ms. Barnett reported that LSC’s budget request is for an amount greater than its current $385 million operating budget, but the proposed federal budget eliminates all funding for LSC. Based on economic analyses, the Permanent Commission estimates that for every dollar expended on civil legal services in New York State, there is a return of approximately $10.00 to the State treasury. Public funding of civil legal services is sound economic policy. Further, there is broad-based support for LSC and its budget request evidenced by, among other things, letters sent to congressional representatives signed on behalf of 165 law school deans, 150 law firms and 200 corporate general counsels, to name a sampling. Ms. Barnett projected that while it is unlikely LSC’s budget request would be fully funded, it would not be de-funded.³

On a more hopeful note, Ms. Barnett outlined New York’s planning process to develop a strategic action plan to provide 100% access to effective assistance for essential civil legal needs to all low-income New Yorkers. New York is one of seven states, along with Alaska, Colorado, Georgia, Hawaii, Massachusetts and Minnesota, to receive a $100,000 grant from the Public Welfare Foundation (and administered by the National Center for State Courts) to develop a report, due on December 15, 2017, on a framework to close the State’s justice gap. To describe the planning process, Ms. Barnett introduced Neil Steinkamp, Managing Director at Stout Risius Ross, LLC, who is serving as the consultant to the Permanent Commission on this project.

Closing the justice gap in New York requires a flexible process that modulates the type of work needed based on the level of progress in each locality. Mr. Steinkamp outlined the steps undertaken to date. A series of four community listening sessions were conducted in geographically diverse areas of the State: an urban location in the New York metropolitan area (Queens), a rural location (Bath in Steuben County), a suburban location (Suffolk), and an urban location outside the New York metropolitan area (Albany). Each session included a group of local justice stakeholders invited to discuss the unique challenges in their communities to enable the Permanent Commission to develop an understanding of what constitutes the justice gap in these locations and the manifestations. Mr. Steinkamp indicated that it was apparent that legal issues presented in conjunction with myriad social and economic issues, such as access to transportation, English language proficiency, affordable housing, health epidemics, that collectively present staggering challenges to the essentials of life.

³Congress adopted a Continuing Resolution to keep the federal government functioning, which remains in effect through December 8, 2017. The Continuing Resolution maintains the LSC’s funding for FY18 at its FY17 level of $385 million. However, in September, the House appropriated only $300 million for the LSC for FY18, a $85 million cut from the current LSC appropriation. At that time, the Chair of the House Commerce, Justice, Science and Related Agencies Appropriations Subcommittee, John Culberson (R-TX), expressed support for the important work of LSC and his commitment to work to increase the allocation in conference with the Senate. In July, the Senate Appropriations Committee approved $385 million for LSC in FY18, but it is unknown now when the full Senate will act on the appropriation bill. There is no certainty if Congress will ultimately produce a budget that funds LSC and the rest of the federal government, or will simply extend the Continuing Resolution, perhaps for all FY18.
As part of this strategic action planning process, the Permanent Commission has formed three working groups that are engaged in statewide inventory and assessment of the tools and services that provide access to justice in New York. Mr. Steinkamp stated that law schools can enable, encourage and facilitate change and will have a critical role in the strategic action plan.

To begin framing the action plan, Mr. Steinkamp announced that Suffolk County will be the location of the first pilot. Mr. Steinkamp indicated that Suffolk County has a diversity of issues, languages and populations, the largest veterans’ population in the State, the highest number of unaccompanied minors entering the country, and a law school -- factors that share commonality with other regions, yet with a distinct local complexion in Suffolk County. It is anticipated that the efforts undertaken in Suffolk County will serve as a template for customization to inform replication of local efforts to close the justice in regions across the State.

Illustrative of the value and impact of a localized approach to close the justice gap is the Legal Hand neighborhood storefront centers. Ignacio Juareguilorda, Director of Legal Hand, explained that Legal Hand is an important access point for a community, expanding access to justice and to democratic processes. Legal Hand trains non-lawyer volunteers to provide free legal information, self-help strategies and referrals to low-income people in their neighborhoods. The Legal Hand storefronts have become repositories of information and data on the legal and social challenges confronting local residents. Through this process, the Legal Hand storefronts serve as catalysts for community and law school partnerships to identify and address these challenges. Mr. Juareguilorda reported that, to date, the three flagship storefronts in Crown Heights, Brooklyn; Jamaica, Queens; and Brownsville, Brooklyn, have trained more than 150 volunteers, who have logged over 10,000 hours in the first year, assisting more than 6,500 visitors.

Dean Diller adjourned the morning plenary session and invited participants to join their assigned Work Groups for discussions on targeted themes that will integrate the issues raised by the plenary panel. The three Work Group sessions opened with introductory panels and, in some instances, short break-out sessions to establish action items. Following a lunch break, the Work Group sessions resumed for further panel presentations and small group discussions to develop recommendations to present at the afternoon plenary session.

The Work Groups’ recommendations inform the Permanent Commission in developing its proposed recommendations to include in the Annual Report to the Chief Judge on the continuing efforts to help close the justice gap, as requested in the 2010 Joint Legislative Resolution⁴ and in furtherance of the 2015 Concurrent Legislative Resolution, which adopted our State’s policy that all New Yorkers have effective civil legal assistance when confronting matters involving the essentials of life (housing, family matters, access to health care and education benefits, and subsistence income).⁵

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Reports from the Conference Work Group Sessions

Work Group 1: Law School Clinics and Programs:
Enhancing Access to Justice and Access to Democratic Participation through Advocacy and Community Partnerships

Co-Facilitators:
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Jose W. Torres
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Overview

The Work Group session explored models of collaboration to expand access to justice among law school clinics and local communities, legal service providers, community organizations and the courts. The morning session featured a panel of law school clinicians, a law student and community-based legal providers who addressed the successes and challenges of their clinic-community collaborations in direct representation, law reform advocacy and information empowerment. In the afternoon session, participants worked in facilitated small groups and discussed ways of developing and strengthening collaborations and initiatives.

Work Group 1 Recommendations

1. Increase law school and student involvement in access-to-justice activities.

   Law schools should mandate internships in legal services as a prerequisite to graduation.
Exposing law students to the range of civil legal services work-- like housing, LBGTQ representation, family law, government benefits -- offers insight into the myriad legal issues involved in representing people facing challenges to the essentials of life.

Law schools should offer classes and training for law students on community engagement and outreach.

Law schools should require LL.M students to engage in legal services work.

Students should be encouraged to develop client-case studies to foster interest and cultivate fellow-student participation in public interest work.

2. Law school clinics should collaborate with community groups and non-lawyers to expand access to justice and to democratic processes.

Law school clinics should partner with activist groups to better serve the community they represent and cultivate community trust.

Law school clinics should train students to link legal representation with social services in the community.

Law schools should invite Legal Hand and other community organizations to access-to-justice forums to raise awareness that the provision of legal information (explaining legal forms and processes or “know your rights” trainings and referrals) is empowering, expands access, and creates a pipeline to education for graduate education, including law school.

Synopsis of Work Group 1 Discussion

There is a disparity between what justice should look like and what justice means for many individuals, particularly, to name a few -- low-income people, the elderly, veterans, children, immigrants, non-English speakers and the disabled. Law school clinics serve these populations and collaborate with local community groups, places of worship, legal services providers, local bar associations and the courts, to expand access. Clinics offer law students a wealth of experiences and skills, and clinic work often serves as a springboard for research projects on state and national trends that command judicial and/or legislative attention. Direct representation clinics allow supervisors to identify trends for affirmative litigation that highlight issues affecting the essentials of life issues across a community, such as foreclosures, and offer students the opportunity to prepare amici curiae briefs on such issues in cases positioned for appellate review.

Law school clinics are a resource for community development and present meaningful opportunities for law students to participate in grass-roots community organizing that can address issues in ways that motivate social change. Clinics that engage with community organizations expand access to justice and democratic processes, at once empowering and strengthening roots to the community through education and legal assistance.
The work and impact of the Legal Hand neighborhood storefront in Jamaica, one of three centers operating in the metropolitan area, was highlighted as an example of the power of community engagement in expanding access. The Jamaica Legal Hand Center, like its sister centers in Brownsville and Crown Heights, provides a safe place for residents of the neighborhood to obtain legal information, self-help strategies and referrals to improve access and prevent problems from becoming legal actions. The center is staffed by trained community volunteers in collaboration with a local legal services provider. As neighbors in the community, volunteers are familiar with the local issues and are fluent in the languages spoken there. Importantly, Legal Hand is a resource for the range of services, both legal and social, that are implicated when someone is confronting an essentials-of-life matter. The Work Group suggested that law students be exposed to Legal Hand and its operational model as it provides a unique opportunity for developing important leadership skills. The centers themselves are “change agents” and are fast becoming a pipeline to higher education, including law school.

Work Group 2: Right to Counsel in New York City Housing Court and Beyond: Implications for New York’s Law Schools

Co-Facilitators:
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Panelists:
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Marika Dias
Director, Anti-Displacement Project
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Randy Dillard
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Community Action for Safe Apartments (CASA)
Harvey Epstein
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Executive Director
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Overview

The anticipated mayoral approval of legislation that guarantees universal access to counsel for New York City (NYC) tenants living below 200% of the federal poverty line, and free legal consultation for any NYC resident facing eviction, presents a remarkable public interest opportunity for law schools and law students. The allocation of $72 million in city funds for eviction-prevention legal assistance promises to transform the culture of housing court. The Work Group explored the implications of this legislation for New York’s law schools, their faculty, staff, administrators, who face the challenge of preparing greater numbers of students to enter public interest law. The Work Group generally considered how to transform the culture of legal education to excite students about public interest work, generally, and housing work, specifically. The Work Group also explored ways to increase collaborations between law schools and legal services providers and how to develop a more effective pipeline for civil legal services providers to meet the need for legal assistance statewide and the immediate demand for legal representation in housing court proceedings in New York City.

Work Group 2 Recommendations

1. Law schools should educate students about the role of legal services in the lives of clients living in poverty.
2. Law schools should promote social justice and community engagement beginning at orientation with presentations from legal services lawyers.
3. Every law school should establish housing clinics.
4. Law schools should teach students about institutional and structural factors that perpetuate poverty; access to justice should be infused across the curriculum.
5. Law school instruction should include the importance of coalition building, diversity training and storytelling.
6. Law schools should promote and encourage public interest opportunities and internships.
7. Law schools should engage in a dialogue with the judiciary and legal services providers about how to increase diversity in the profession.
8. Law schools should evaluate admissions criteria to ensure greater diversity.

Synopsis of Work Group 2 Discussion

Incentivized real estate development, rezoning and gentrification are several factors that have reduced the availability of affordable and low-income housing in the metropolitan area. As tenants are squeezed out, the pressures on the courts, the legal services providers and local governments mount. Movements advocating for a “civil Gideon” have gained traction as states, like New York, have adopted policies to improve access to justice for low-income people facing challenges to the essentials of life, and secured funding through targeted budget allocations for civil legal services. This year, New York City adopted a framework to institute universal access to counsel in housing court, backed by a multi-year funding plan. Now that both landlords and...

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6On August 11, 2017, New York City Mayor Bill de Blasio signed Intro 214-b into law [26 NYC Admin Code, Chap. 13] guaranteeing access to counsel for New York City tenants facing eviction, with a funding allocation in the NYC budget to support implementation of the law expected to reach $155 million over the next five years.
tenants will have counsel, it is expected that the culture of NYC housing court will be transformed in principle and practice. This presents a challenge and an opportunity for law schools.

It is important to recognize that an infrastructure must be developed to support the expanded access promised by the legislation and funding. Significantly, the proposed legislation does not confer a “right,” but a guarantee to access. NYC started building the capacity to fulfill the guarantee by allocating resources, and the recent decline in evictions evidences as much and is itself a sign of a cultural shift. This guarantee provides the opportunity to further formulate policy, improve the practice of law in housing court, develop community partnerships and engage in advocacy to promote best practices. Representation will benefit everyone; it is far better for a tenant to remain in the home then end up in a shelter, with the attendant emotional toll, and expense to the City. And while the guarantee falls short of an unqualified “right,” it surely serves to equalize the playing field for tenants.

The recognition of the need for universal access to counsel in housing court is grounded in decades of litigation and organizing efforts by community coalitions fighting for tenant rights, such as Community Action for Safe Apartments (CASA) and the Right to Counsel Coalition NYC. New York’s former Chief Judge, Jonathan Lippman, has been an outspoken advocate in favor of tenants’ rights, garnering media attention for “civil Gideon” and national support from the Conference of Chief Justices for expanded access to justice. Inaction by the New York State Legislature intensified the urgency to succeed in elevating tenants’ rights at the local level. Efforts to enact a right to counsel in housing court are also underway in other metropolitan legislatures, including Boston, Washington, D.C. and Philadelphia.

Law schools have a critical role in cultivating a pipeline for public interest work generally and housing work, specifically. Social justice should be introduced at orientation and access to justice should be integrated across the curriculum. It is imperative that law students understand that “victory” is grounded in the provision of legal representation and that preserving the rights of vulnerable individuals and marginalized communities expands access. This underpins the philosophy of every lawyer and certainly one committed to public interest work: to be a zealous advocate. A legal aid lawyer is tasked with serving as a “defender” of civil legal rights for vulnerable individuals and disenfranchised communities.

The Work Group agreed that law schools have an obligation to its students to impart an understanding of the scope of a legal services lawyer’s job. Law students should graduate with cultural competency and an ability to understand what it means to live in poverty. Law schools should develop more public interest internships and summer training programs to provide students credible experiences. The creation of learning labs where students can participate in a targeted simulation, in comparison to traditional semester-long clinics, can provide students with a realistic sense of public interest work and its challenges.

The Work Group expressed a need for law schools to recruit broadly from all populations. It was suggested that law schools encourage recruitment by legal services providers on a timetable consistent with private employers, as well as organize public interest panels in conjunction with other law school recruitment efforts. In addition, debt/loan forgiveness programs should be more available for students who have heavy loan obligations and may not have the option of pursuing a public interest job. Given the high number of new job opportunities anticipated in NYC from the new funding, statewide recruitment efforts should be undertaken to meet the employment needs. For example, a recruitment video spotlighting law
professors and legal services lawyers, with a special focus on housing court, may be a useful recruitment tool.

**Work Group 3: Role of New York’s Law Schools: Protecting Immigrants in Our Communities**

**Facilitator:**
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Director, Kathryn O. Greenberg Immigration Justice Clinic  
Benjamin N. Cardozo School of Law

**Panelists:**  
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Professor of Law  
Director, Safe Passage Project Clinic  
New York Law School  

Theo Liebmann  
Clinical Professor of Law  
Director, Youth Advocacy Clinic  
Maurice A. Deane School of Law at Hofstra University  

Beth Lyon  
Clinical Professor of Law  
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Sarah Rogerson  
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Director, Immigration Law Clinic  
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**Overview**

The Work Group discussed ways law schools have partnered with immigrant communities and facilitated pro bono and public legal services programs throughout the State. Particularly, the Work Group highlighted how law school clinics advocate on behalf of immigrants in state courts on family law, labor law and criminal law matters, as well as in federal forums. The Work Group suggested: (1) ways law school curricula, clinics and research can continue to evolve to expand protections for immigrants; (2) how law schools can collaboratively develop a robust pipeline for students to engage in this type of public interest legal work; and (3) how to partner with New York’s courts to further these efforts.

**Work Group 3 Recommendations**

1. **Expand use of law schools as hubs for pro bono coordination and resource development to assist immigrant communities.**

   Safe Passage Project at New York Law School is an exceptional model.
2. Law schools should adopt curricular revisions to support development of practice-ready immigration lawyers to meet the growing demand for entry-level public interest immigration lawyers.

This year, more than $25 million will be allocated to immigrant legal services in the New York State and New York City budgets, an amount more than double the already historic high level of public funding for such services. This presents a tremendous opportunity for law schools to identify people interested in public interest immigration law either at the application phase or during a student’s first year of law school. Thereafter, law schools can create a course of study, including language classes, to ensure they are prepared and competitive for these newly available jobs. The New York State Unified Court System could assist these recruitment and placement efforts by, among other things, setting guidelines, creating a universal certificate program, and/or funding week-long service learning trips for students to provide legal assistance for detainees at remote detention facilities.

3. A statewide, uniform student practice rule should be adopted to maximize the ability of law school clinics to meaningfully contribute to expanding access to justice for immigrants.

Clinical law professors in the Third and Fourth Judicial Departments observed that the student practice rules in these departments are more restrictive than the rules in the First and Second Judicial Departments, which have inhibited the ability of law school clinics to help immigrants.

4. Propose that the Chief Judge and the Chief Administrative Judge promulgate two specific rules that will have the effect of limiting federal immigration enforcement operations inside New York State courthouses:

   Rule 1: Compliance with Immigration Law Enforcement Activities:

   Employees of the New York State Unified Court System shall not:

   (i) Assist or cooperate with federal immigration enforcement activities during their employment, in any courthouse of the New York State Unified Court System. This includes, but is not limited to, a prohibition on providing any information to immigration enforcement officers regarding persons appearing before the court, except information regarding citizenship or immigration status, as required by 8 U.S.C. § 1373, and then only if known.

   (ii) Inquire into the immigration status of any individual within any courthouse of the New York State Unified Court System unless such person’s immigration status is necessary for the determination of program, service or benefit eligibility or the provision of services.

   Rule 2: Civil Arrests without Judicial Warrants:

7 The proposed rules were informed by the “Proposed Judicial Rules” drafted by the Immigrant Defense Project as presented to the Conference Work Group on May 18, 2017.
Civil arrests that are not related to a proceeding in the New York State Unified Court System may be executed within a courthouse of the New York State Unified Court System when accompanied by a judicial warrant with the authorization to take into custody the person who is the subject of such warrant. Judicial warrant is defined as a warrant issued by a magistrate sitting in the judicial branch of local, state or federal government.

The first proposed rule will almost eliminate the role of New York State Unified Court System staff in federal immigration enforcement operations. This will insulate court staff from pressures from federal immigration authorities. Importantly, this rule will restore the impression in immigrant communities that the federal immigration enforcement system is separate and distinct from the New York State courts, and that the state courts can be safely accessed without interference.

The second proposed rule will bring any United States Immigration and Customs Enforcement (ICE) arrest inside a state courthouse into full compliance with the Fourth Amendment, as it will require that a neutral magistrate make a probable cause finding before authorizing an arrest. This will enhance the reputation of New York State courts as protecting individuals from unconstitutional seizures, and will substantially reduce the number of ICE arrests inside state courthouses, since, in part, obtaining a judicial arrest warrant is currently outside of ICE's ordinary practices.

Both rules are compliant with federal law. It is indisputable that states can refuse to participate in federal immigration enforcement. The first rule specifically includes a narrow carve-out for information sharing that is required by federal statute, 8 U.S.C. § 1373. The second rule is broad, does not specifically target any agency and applies to any civil arrest that is not related to a matter before the New York State Unified Court System.

**Synopsis of Work Group 3 Discussion**

The Work Group explored the critical role law schools play in advancing access to justice for immigrants and protections for immigrant communities. It was noted that immigration work offers students advocacy experience as well as work in transactional law, education policy, and reform initiatives focused on ICE actions in state courthouses. Immigration work often involves collaborations with experts in other fields and local and state government officials. It is such collaborative work that serves the community most effectively and provides students the opportunity to learn and develop skills across disciplines.

The Safe Passage Project, a nonprofit organization at New York Law School, is model of collaboration. The Safe Passage Project works with legal services providers, the bar and community partners through a law school clinic to provide critical legal services to unaccompanied minors. Lawyers and non-lawyers can access a library of training materials and on-demand videos made available by the Safe Passage Project. The Safe Passage Project also hosts "Know Your Rights" sessions at local schools and places of worship that serve the dual role of providing information to those in need, as well as engaging additional volunteers.

The justice clinics at Albany Law School also serve as models of collaboration. The justice clinics engage and supervise volunteer bilingual undergraduate students to serve as interpreters and/or translators to assist non-English speakers with understanding the legal
matter that brought them into the clinic. These language access services have enabled Albany Law School’s justice clinics to expand their capacity and serve more immigrants and other vulnerable individuals in crisis. The law student’s clinical experience is invaluable, providing direct representation and supervisory responsibility of undergraduate interpreters/translators. Additionally, a strong pipeline for undergraduates to the law school has been created based on the students’ impactful experiences in the law school’s clinics.

The Work Group agreed that law schools should recognize students who pursue public interest work with, for example, a public service language certificate or public service fellowship. Law schools should be cognizant of the employment opportunities connected with New York City’s allocation of $25 million for legal services for immigrants. In this context, clinical and experiential learning is an important engagement tool to encourage students to pursue legal services work. As part of cultural competency training, law schools should consider language services training given that interpretation and translation skills are invaluable when working with non-English speaking or limited English proficiency clients. Law schools are well positioned to facilitate community conversations, which would include local bar associations, to identify community issues and advocacy platforms, and create awareness of individual rights and civic responsibilities. These conversations also allow individuals in the immigrant populations that work with law schools to become familiar with the law school community and perhaps spark new educational pipelines.

The Work Group discussion turned to the fear immigrants are experiencing since the president’s inauguration on January 20, 2017. Legal services providers in the Work Group, who litigate in New York’s criminal, civil, and family courts, expressed concern about reports from clients who are afraid to enter New York’s courts because of the presence of ICE agents. It has been documented that the number of arrests and attempted arrests by ICE agents inside New York State courthouses have increased. More importantly, the presence of ICE in courthouses and perceived cooperation between NYS Unified Court System staff and ICE agents has fueled fears within immigrant communities that accessing New York State courthouses might lead to detention by ICE.

The Work Group remarked that legal services clients are witnesses and victims of crime, including intimate partner violence situations, tenants living in unsafe conditions, exploited workers, criminal defendants, and family court litigants (e.g., through abuse and neglect, child support and custody, PINS, orders of protection, adoption, guardianship). These individuals include U.S. citizens, green card holders, asylees and refugees, in-status visa holders, people who have overstayed visas or entered the country via the border, and people with pending applications to regularize their status or obtain protections from persecution and other forms of violence and danger. They and their communities regularly see and hear about ICE arrests in state courts, and of court staff participating in arrests and providing sensitive, personal information to ICE that will later be used by the government in detention and deportation hearings, heightening tension and concern in immigrant communities. Nationally, 75% of advocates report that immigrant survivors of intimate partner violence are now concerned about going to court, and 43% of advocates have worked with clients who have recently dropped a civil or criminal case.

Advocates in New York State have documented reports of ICE arresting survivors of rape and other violence, people with significant mental health issues, young people, and people appearing in the family courts. This is completely consistent with reports from other states and
with ICE’s public statements about its arrest practices. ICE has publicly stated that it will not hesitate to arrest witnesses and crime victims appearing in state courts.⁸

In conducting these arrests in and near in state courts, ICE operates largely outside of the normal scope of law enforcement agencies. Without a subpoena, ICE requests and obtains personal, often sensitive identifying information from New York State Unified Court System staff, including files for use in detention and deportation hearings, to facilitate arrests inside the courthouse. It is extremely rare that ICE obtains a judicial warrant to authorize an arrest. Absent exigent circumstances, ICE is required to obtain at least an administrative warrant (issued by ICE itself) to make an arrest, but often either does not or refuses to serve it on the arrestee or counsel when asked. Given the paucity of guidance from the New York State court system on its relationship with ICE, New York State Unified Court System staff are regularly participating in arrests (e.g., helping to detain litigants), furnishing information to ICE about litigants and their state court proceedings, and facilitating ICE agents’ access to litigants.

This cluster of issues presents an immediate threat to the integrity of the court system and to public safety in New York State. The Work Group requests that the Chief Judge and Chief Administrative Judge to promulgate rules to reduce federal immigration enforcement inside courthouses and thereby restore public trust in the State’s courts.

Concluding Plenary Session

Dean Diller thanked the work group facilitators, the plenary and Work Group panelists, members of the law school planning committee and all the participants for their inspired discussions. Dean Diller recognized the value of the annual law school conference, including its educational function, collaborative spirit and the significant contribution to the Permanent Commission in its work to develop recommendations on how New York’s law schools and law students can further their efforts to expand access to justice.⁹ Law schools are singularly equipped to cultivate lawyers and leaders who will work to ensure access to justice, particularly for disadvantaged or disenfranchised individuals and communities.

Dean Diller invited the facilitators of the three Conference Work Groups to recap their sessions and offer recommendations, as detailed herein, that will be presented to the Permanent Commission.

Ms. Barnett closed the Conference with a message of appreciation and a request for feedback to inform efforts in planning for next year’s Conference.

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⁸ For example, in Texas, ICE tracked an LGBT woman from the domestic violence shelter where she was living to the courthouse where she sought an order of protection. In Illinois, ICE arrested a man at a court hearing where he was scheduled to complete an adoption.

⁹ Since the first law school conference in 2012, ideas generated from the opening plenary panels and work group sessions, have produced recommendations adopted by the Permanent Commission that have increased the involvement of New York’s law schools, students and graduates in statewide efforts to expand access to justice, in addition to sparking pro bono projects and collaborations with legal and non-legal community partners (see PERMANENT COMMISSION ON ACCESS TO JUSTICE, Reports to the Chief Judge of the State of New York 2012-2016, available at https://www.nycourts.gov/accesstojusticecommission and Law School Conference Reports in appendices to corresponding year).
EXHIBIT 1

CONFERENCE PROGRAM

Sixth Annual Law School Conference


Convened By:

New York State Permanent Commission on Access to Justice at St. John’s University School of Law
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>9:00-9:30 am</td>
<td>Registration and Check-In</td>
<td>Solarium, Ground Floor</td>
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<td>Light Refreshments</td>
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<tr>
<td>9:30-10:00 am</td>
<td>Welcome and Introductions</td>
<td>Belson Moot Courtroom, 2nd Floor</td>
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<tr>
<td></td>
<td>Helaine M. Barnett</td>
<td>Chair, New York State Permanent</td>
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<td></td>
<td>Michael A. Simons</td>
<td>Commission on Access to Justice</td>
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<td></td>
<td>Opening Remarks</td>
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<tr>
<td></td>
<td>Hon. Janet DiFiore</td>
<td>Chief Judge of the State of New</td>
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<td>York</td>
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<tr>
<td>10:00 am-11:15 am</td>
<td>Morning Plenary Session</td>
<td>Belson Moot Courtroom, 2nd Floor</td>
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<tr>
<td></td>
<td>Moderator</td>
<td>Matthew Diller</td>
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<tr>
<td></td>
<td>Panelists</td>
<td>Martha Bergmark</td>
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<tr>
<td></td>
<td></td>
<td>Sarah Ludwig</td>
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<td></td>
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<td>Janai Nelson</td>
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<td>Zephyr Teachout</td>
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<td>11:20 am-11:45 am</td>
<td>Mid-Morning Briefings</td>
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<td>Funding Legal Services Corporation: Reflections and Projections</td>
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<tr>
<td></td>
<td>Helaine M. Barnett</td>
<td>Chair, New York State Permanent</td>
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<tr>
<td></td>
<td>Alexander D. Forger</td>
<td>Commission on Access to Justice</td>
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<tr>
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<td>New York State Permanent Commission’s Strategic Planning Process to Develop an Action Plan to Provide Effective Assistance to All New Yorkers in Need</td>
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<td>Helaine M. Barnett</td>
<td>Chair, New York State Permanent</td>
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<td>Legal Hand, Neighborhood Storefronts: Impact in the Communities</td>
<td>Commission on Access to Justice</td>
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<tr>
<td></td>
<td>Ignacio Jaureguiordia</td>
<td>Director, Legal Hand</td>
</tr>
</tbody>
</table>
11:55 am -1:15 pm  

**CONFFERENCE WORK GROUPS: Part 1**  

**Law School Clinics and Programs: Enhancing Access to Justice and Access to Democratic Participation through Advocacy and Community Partnerships**  

**ROOM 1-15**

**Co- Facilitators**  

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Director of Consumer Justice for the Elderly: Litigation Clinic  
Director of Clinical Education  
Co-Director, Public Interest Center  
St. John’s University School of Law  

Gina M. Calabrese  
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Albany Law School  

Jennie G. Kim  
Staff Attorney, Legal Hand, Jamaica  

Robert McCreanor  
Executive Director, Hudson Valley Justice Center  

Jose W. Torres  
Volunteer Coordinator, Legal Hand, Jamaica  

The Work Group will explore models of collaboration to expand access to justice between law school clinics and local communities, legal service providers, community organizations and courts. The morning session will feature a panel of law school clinicians, a law student and community-based legal providers. Panelists will discuss the successes and challenges of their clinic-community collaborations in direct representation, law reform advocacy and information empowerment. In the afternoon session, participants will work in facilitated small groups to discuss ways of developing and strengthening collaborations and initiatives.
The Work Group will explore the right to counsel in housing court and beyond, and its implications for New York’s law schools, their faculty, staff, administrators, students and graduates. New York City, poised to become the first jurisdiction in the nation to “guarantee universal access to counsel” for all tenants who live below 200% of the federal poverty guidelines, recently increased its funding for eviction-prevention legal assistance ten-fold, enabling the City’s civil legal services providers to hire more than 200 new housing attorneys. This remarkable development has profound implications for legal services programs, for the courts, and for landlord-tenant practice and law. Significantly, it also has profound implications for law schools, which now face the challenge of preparing students to enter a rapidly growing area of public interest law. The resources that will now be available to housing court, together with the dedicated funding for civil legal services in New York’s state and city budgets, demands increased collaborations between law schools and legal services providers, and the development of a more effective pipeline for civil legal services practitioners in general.
Work Group Three: Role of New York’s Law Schools: Protecting Immigrants in Our Communities

**Facilitator**

Peter L. Markowitz  
Professor of Law  
Director, Kathryn O. Greenberg Immigration Justice Clinic  
Benjamin N. Cardozo School of Law

**Panelists**

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New York Law School

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Clinical Professor of Law  
Director, Youth Advocacy Clinic  
Maurice A. Deane School of Law at Hofstra University

Beth Lyon  
Clinical Professor of Law  
Director, Farmworker Legal Assistance Clinic  
Cornell Law School

Sarah Rogerson  
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Albany Law School

The Work Group will explore the critical role law schools play in advancing access to justice for immigrants and protections for immigrant communities generally. The Work Group will focus on the ways law schools have partnered with immigrant communities, and catalyzed and facilitated pro bono and public legal services programs throughout the State. Particularly, the Work Group will examine how law school clinics advocate on behalf of immigrants in state courts on family law, labor law and criminal law matters, as well as in federal forums. Most importantly, the Work Group will consider the ways law school curricula, clinics and research can continue to evolve to expand protections for immigrants; how law schools can collaboratively develop a robust pipeline for students to engage in this type of public interest legal work; and, identify ways to partner with New York’s courts to further these efforts.

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>1:25 - 2:00 pm</td>
<td>Lunch</td>
<td>Solarium, Ground Floor</td>
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<tr>
<td>2:10 - 3:45 pm</td>
<td>Part II: Work Group Sessions</td>
<td>Concurrent Sessions continue</td>
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<td>Return to Rooms</td>
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<tr>
<td>4:00 - 4:30 pm</td>
<td>Closing Plenary Session</td>
<td>Belson Moot Courtroom, 2nd Floor</td>
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<tr>
<td>Moderator</td>
<td>Dean Matthew Diller</td>
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<tr>
<td>Concluding Remarks</td>
<td>Helaine M. Barnett</td>
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</tbody>
</table>
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ACKNOWLEDGMENTS

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