

LAW SCHOOLS WORKING TOGETHER TO INCREASE ACCESS TO JUSTICE*

CATHERINE GREENE BURNETT** & EDEN HARRINGTON***

I. INTRODUCTION.....	690
II. THE PLAYERS.....	691
A. <i>Role of Law Schools in Increasing Access to Justice</i>	691
B. <i>Role of State Bar Leadership, Access to Justice Commissions, and Foundations in Increasing Access to Justice</i>	700
III. EXAMPLES FROM THE FIELD	702
A. <i>The Minnesota Model</i>	702
1. <i>Law School Public Service Program</i>	703
2. <i>Assisted Pro Se Clinics</i>	703
3. <i>Volunteer Independent Research Project</i>	704
4. <i>Legal Scholarship for Equal Justice</i>	704
B. <i>The Texas Model</i>	706
1. <i>Background</i>	707
a. <i>Year One</i>	708
b. <i>Year Two</i>	708
c. <i>Year Three</i>	709
d. <i>Year Four</i>	709
2. <i>Faculty, Curriculum, and Credit</i>	710
3. <i>Placement and Students</i>	711
IV. LESSONS LEARNED	713
A. <i>Common Positive Attributes Shared by Both Models</i>	713
B. <i>Strengths of Each Model</i>	714
1. <i>Minnesota Model</i>	715
2. <i>Texas Model</i>	716

* This Article is dedicated to Emily Jones, our comrade in arms, co-collaborator, task master, and friend. It had its genesis in a presentation at the 2008 ABA/NLADA Equal Conference in Minneapolis, Minnesota. For her contributions to that presentation and for turning us on to the exciting work being done with Minnesota law schools, we thank Sara Sommarstrom.

** B.A. and J.D., The University of Texas at Austin; Associate Dean of Clinical Studies and Professor of Law, South Texas College of Law.

*** B.A. Rice University, J.D. Columbia University; Assistant Dean of Clinical Education & Public Service, Director of the William Wayne Justice Center for Public Interest Law, and Clinical Professor at the University of Texas School of Law.

C. <i>Limitations of Each Model</i>	717
1. <i>Minnesota Model</i>	717
2. <i>Texas Model</i>	718
D. <i>Recommendations</i>	718

I. INTRODUCTION

This Article examines how law schools, in partnership with *one another*, can work together with traditional legal service providers to increase community access to justice.¹ Solving this puzzle requires coordination among three moving parts: (1) the role of law schools, (2) leadership roles outside the academy, and (3) selection of an optimal delivery method. Part II of the Article provides a brief background of the role of law schools in increasing access to justice, together with the role that has been played by state bar leadership and Access to Justice Commissions. While recognizing that law schools differ in their missions and thus their curricular development, it identifies common tipping points that may animate a law school's participation. These pressure points have both internal and external focuses. This Part then catalogues the role that bench and bar leadership have played in access to justice initiatives that take place during law school education. Part III describes in detail two current models for this new paradigm—models with a radically different approach—the Minnesota and Texas experiences. One of these models has a very long, distinguished history and demonstrated track record; the second is in the fifth year of a pilot project. One model is more external to the participating law schools, with the other more

1. There are numerous examples throughout the United States of law schools *individually* partnering with a legal service provider, either as part of the existing clinical education curriculum or a pro bono program. *See, e.g.*, American University Washington College of Law, Clinical Program, <https://www.wcl.american.edu/clinical/> (last visited Aug. 10, 2010) (showing the extensive externship programs available at American University, Washington College of Law). While applauding those individual initiatives, this Article confronts the access to justice issue through a different prism—a paradigm in which all law schools in a state or major geographic region act collaboratively as force multipliers. Although this Article focuses on two such state-wide efforts, there have been regional efforts as well. One example is found in the District of Columbia's D.C. Law Students in Court Project, which allows students to represent clients in D.C. Superior Court, primarily in the Landlord and Tenant and Small Claims Branches. It is a joint project of five Washington, D.C. law schools: American University, Georgetown University, George Washington University, Howard University and Catholic University of America. Students in the program are taught and supervised by adjunct faculty. Students and supervising attorneys work in the program's offices in downtown Washington, D.C., near the courts. The clinic is open to third year law students, spans two semesters, and provides year-round services with a summer/fall rotation as well as a fall/spring rotation. *See* D.C. Law Student in Court, <https://www.wcl.american.edu/clinical/dc.cfm> (last visited Aug. 10, 2010).

integrally intertwined. This Article concludes in Part IV by assessing lessons learned from each model and recommending best practices for new initiatives.

II. THE PLAYERS

Using the law school educational experience as a vehicle for increasing access to justice in practical terms, rather than merely as a venue for discussion of normative principles of professional service, requires an examination of factors that influence law schools to embrace or eschew this role. If a law school elects to participate in a collaborative outreach to those historically underserved by the profession, the law school typically will do so in the context of existing legal services. To understand how that decision might be implemented, consideration of the role of bar leadership becomes critical.

A. *Role of Law Schools in Increasing Access to Justice*

If the question is: “what is driving American law schools to participate in efforts to increase access to justice,” then the answer is as varied as the more than 200 American Bar Association (ABA) approved law schools in the United States.² Individual law schools have differing missions, and as a consequence, differing emphases on curricular and values development. Nevertheless, there are generic explanations that cover both internal and external tipping points for a majority of law schools.³

Motivators within a particular law school generally fall into three categories: (1) the more than half century of the clinical legal education movement, (2) the values inculcation dynamic, and (3)

2. ABA Approved Law Schools Alphabetically, <https://www.abanet.org/legaled/approvedlawschools/alpha.html> (last visited Aug. 10, 2010).

3. When looking at access to justice from a law school’s perspective, we are considering *both* academic clinical programs and public interest programs for which credit toward completion of the Juris Doctor is not awarded, such as non-credit pro bono service requirements or volunteer programs. Additionally, this Article focuses on what might occur *during* the Juris Doctor program and not issues such as recruiting or retaining students with a public interest focus. For examples of the later, consider public interest scholarship programs and loan repayment assistance programs. Loan repayment assistance programs (LRAPs) exist at over 100 law schools. Most are designed with the goal of enabling law graduates to enter public interest or government work by providing financial aid for educational debt. See Equal Justice Works, List of Law School LRAPs, <https://www.equaljusticeworks.org/resources/student-debt-relief/law-school-lraps/list-law-school-lraps?destination=512> (last visited Aug. 10, 2010) [hereinafter LRAPs] (providing a list of American law schools with LRAP programs).

student demand. There is intersection among these categories, and the emphasis given to any one category, or their combined synergy, will vary by institution.

American law schools have seen more than a fifty-year movement of increased clinical and skills education emphasis.⁴ Two of the more popular delivery methods of this type of education are academic internships and direct representation clinics.⁵ In the academic internship model, students typically gain experience in the field working with practitioners, augmented by the contemporaneous guidance of a faculty member. Students represent clients or perform other professional roles under the supervision of practicing lawyers in an entity that is not part of the law school. Alternatively, they observe and assist judges in their work.⁶ In either scenario, the locus of the practical field experience is external to the law school and has its own life; only the contemporaneous seminar or class is tied to the law school. In contrast, direct representation clinics are typically housed within the law school and supported by it.⁷ Clinical students work with the issues of real clients, in real time, under the supervision of law

4. See Suzanne Valdez Carey, *An Essay on the Evolution of Clinical Legal Education and Its Impact on Student Trial Practice*, 51 U. KAN. L. REV. 509, 513, 515 (2003) (providing a brief overview of the history of clinical legal education in American law schools). The clinical legal education *movement* is generally considered to have started in the 1960s, although there were isolated clinics as early as the 1920s. Before the clinical movement, much of legal education focused on analytical skills and substantive law, with some consideration of legal research. See SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATION CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 233 (1992) [hereinafter NARROWING THE GAP].

5. The third clinical model is the simulation course, in which students assume professional roles and perform law-related tasks in hypothetical situations. Generally these courses highlight a discrete set of skills; for example, trial advocacy, interviewing and counseling, negotiation, or contract drafting. While such courses are effective vehicles for skills training, they are not the focus of this Article because they have little impact on the issue of actual delivery of access to justice. This is not to discount that the simulation hypothetical may increase awareness of ensuring access to justice as a professional value, and may help the law student to develop a professional identity that internalizes that value.

6. Internships can be focused on a discrete area of law, such as consumer rights or immigration. They can be focused on a particular client base, such as victims of domestic abuse or juveniles or the mentally ill. Alternatively, they may be focused on a practice type such as administrative agency representation, or litigation, or transactional practice. Or, they may be focused on the practice setting, such as legal services corporation entities or public prosecutor or defender offices.

7. Many of the first in-house law school clinics had a litigation orientation, earning them the sobriquet “advocacy clinics.” However, many contemporary law school clinics are transactional in nature rather than litigation oriented. The common theme running through every model is that students represent clinics, or perform other professional roles, under the supervision of members of the law school faculty.

school faculty. In either model, there are natural synergies with existing legal service providers. For example, internship students are placed in the offices of existing legal service providers and direct representation clinics receive referrals from or may work collaboratively with area service providers.

Another outgrowth of this fifty-year history is the background of faculty teaching in clinical legal education. Many have had legal service corporation or public interest backgrounds before entering academia. Increasingly, new clinical faculty members have previously participated in internships or direct representation clinics while they were students.

Law schools now explicitly recognize that legal education is more than teaching doctrine and skills. It also involves imparting the ethos and values of a service profession. The mission statements of many law schools reflect this commitment, and their message is often repeated throughout the law school experience.

The third internal motivator for many law schools is an ever increasing student demand for service opportunities. Those studying generational trends suggest that current students come into the law school environment with *pre-law* school experiences of service and volunteerism.⁸ They expect and want law schools to provide similar experiences, albeit now tailored to the legal arena.⁹

External motivators for the law school include both accreditation criteria and critiques of legal education from within the profession and by educators. Those law schools seeking the recognition “ABA Approved” must comply with the ABA’s Council on the Section of Legal Education’s accreditation standards.¹⁰ Although these standards

8. See Thomas W. McKee, *Recruiting and Managing the Younger Volunteers*, VOLUNTEER POWER NEWS, July 2003, <http://www.volunteerpower.com/articles/Newsletter08.asp>.

9. The growth in professional skills curriculum has been attributed in part to student demand. See NARROWING THE GAP, *supra* note 4, at 241.

10. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA, 2009–2010 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 4 (2009), available at <http://www.abanet.org/legaled/standards/standards.html> [hereinafter ABA STANDARDS]. The Council of the Section on Legal Education and Admissions to the Bar describes its relationship to law schools and to other accrediting entities as follows.

The Council is the governing body of the Section of Legal Education and Admissions to the Bar, and it also serves as the United States Department of Education recognized accrediting agency for J.D. programs in the United States. In its role as an accrediting authority the Council has adopted Standards and Interpretations for the Approval of Law Schools. A number of those Standards and Interpretations speak to the program of legal education that the Council believes a law school must offer to prepare its graduates for careers in the legal profession.

are currently in the process of study and revision,¹¹ two standards speak directly to access to justice concerns. Standard 302(b)(1) requires approved law schools to provide substantial opportunities for live-client or other real-life practice experience.¹² Standard 302(b)(2) and its Interpretations require law schools to provide substantial opportunities for student participation in pro bono activities.¹³ While these Standards predate the 2007 Carnegie Report (addressed later in this Article), they reflect appreciation of the concepts that practical

The Standards and Interpretations reflect the general principle that law schools should be given considerable discretion to fashion their own curricula, consistent with their varied and diverse missions. There are many more courses and subjects that might be appropriate and worthy of inclusion in a law school course of study than can be accommodated in a three-year full-time course of study (or its part-time equivalent). Choosing among many worthy and important courses, subjects and topics is a matter best left to each law school within the basic framework established by the Standards and Interpretations.

Council Statements,
<https://www.abanet.org/legaled/accreditation/Council%20Statements.pdf> (last visited Aug. 10, 2010).

11. The ABA's Standards Review Committee consists of fifteen members; currently, those fifteen members include seven law school academics, two university presidents, one Supreme Court Justice, one federal judge and four practicing lawyers. The Committee is charged with the regular review of the standards. It is undertaking a comprehensive review of the standards. This process began in September 2008 and is expected to take at least the following two academic years. *See* Comprehensive Review of the Standards 2008-2010, <https://www.abanet.org/legaled/committees/comstandards.html> (last visited Apr. 14, 2010) (follow hyperlink to "2008 Comprehensive Review Memo"). The last comprehensive review began in September 2003 and was completed in 2006. *Id.* What the Counsel describes as "momentum" for change has come from reports from the Accreditation Policy Task Force, the Special Committees on Outcome Measures, Transparency, and Security of Position. *Id.* In the interim, the Council also adopted a Strategic Plan. Each report and plan suggested changes to the Standards, thus triggering this most recent comprehensive review. *Id.*

12. ABA STANDARDS, *supra* note 10, at 21-22. Standard 302(b) addresses curriculum and provides that:

(b) A law school shall offer substantial opportunities for:

(1) live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to access his or her performance and level of competence.

Id.

13. Standard 302(b) also addresses curriculum through the prism of pro bono work, by requiring that "[a] law school shall offer substantial opportunities for: . . . (2) student participation in pro bono activities." *Id.* That concept is expanded in Interpretation 302-10: "Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of meaningful law-related service to persons of limited means or to organizations that serve such persons." *Id.* at 23.

skill and professional identity are critical to legal education.¹⁴

In addition to accreditation standards, law schools also are influenced by reports from both within the legal profession and from educators concerning their efficacy. One of the seminal works is the MacCrate Report, which was issued in 1992.¹⁵ That report was a product of the ABA's Section of Legal Education and Admissions to the Bar, which charged its task force with exploring the relationship between legal education and the practicing bar.¹⁶ The task force concluded that both communities are part of one profession and that "[t]he skills and values of the competent lawyer are developed along a continuum that starts before law schools, reaches its most formative and intensive stage during the law school experience, and continues throughout a lawyer's professional career."¹⁷ Significantly, following an in-depth study of the full range of skills and values necessary for a lawyer to assume professional responsibility for handling a legal matter, the MacCrate Report identified ten core skills¹⁸ and four values.¹⁹ Many law schools responded to the MacCrate Report by expanding opportunities for clinical education.²⁰ The MacCrate

14. The "three apprenticeships" of any professional education envision that the professional school is the place students come to be inducted into all three of the dimensions of professional work: its way of thinking, performing, and behaving. Regardless of the academic discipline (law, medicine, divinity, architecture), students who hope to succeed in future practice "must gain a basic mastery of specialized knowledge, begin acquiring competence at manipulating this knowledge under the constrained and uncertain conditions of practice, and identify themselves with the best standards and in a manner consistent with the purposes of the profession." WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 27 (2007).

15. *NARROWING THE GAP*, *supra* note 4. Although this study was entitled *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, it is colloquially referred to as the "MacCrate Report."

16. *Id.* at 3.

17. *Id.*

18. The skills identified are: (1) problem solving, (2) legal analysis and reasoning, (3) legal research, (4) factual investigation, (5) communication, (6) counseling, (7) negotiation, (8) litigation and alternative dispute-resolution procedures, (9) organization and management of legal work, and (10) recognizing and resolving ethical dilemmas. *Id.* at 138–40.

19. The values identified are: (1) provision of competent representation; (2) striving to promote justice, fairness, and morality; (3) striving to improve the profession; and (4) professional self-development. *Id.*

20. As the MacCrate Report found, clinics make an invaluable contribution to the entire legal education enterprise. *Id.* at 238. They are a key component of the process and the opportunities for students to integrate, in an actual practice setting, the fundamental lawyering skills. See generally Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 *CLINICAL L. REV.* 57 (2009). In the wake of the MacCrate Report, law schools increased efforts to include skills training in their curriculum. Patrick E. Longan, *Teaching Professionalism*, 60 *MERCER L. REV.* 659, 660 (2009). Numerous articles detail application

Report's clear emphasis on the need to teach a broad array of skills,²¹ and not merely to focus on legal doctrine, set the benchmark for contemporary legal education and, from a clinical perspective, provided an environment in which the nascent clinical movement could thrive.²²

A second major research initiative was the 2006 Best Practices Project (*Best Practices*), headed by Professor Roy Stuckey, that involved a far-flung network of legal educators over a five-year study period.²³ The goal of that project was “[t]o develop through a dialogue a consensus understanding about the present state of

of the MacCrate Report to clinical teaching. See generally Peter A. Joy, *The MacCrate Report: Moving Toward Integrated Learning Experiences*, 1 CLINICAL L. REV. 401 (1994). Beginning in the 1990s, as a consequence of the MacCrate Report, American law schools saw an increased pedagogical focus on their clinics in addition to the historical emphasis on legal-aid and public-service. See Sarah O'Rourke Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Clinics and Legal Writing Programs*, 14 CLINICAL L. REV. 301, 308 (2007).

21. The MacCrate Report's attempt to create a taxonomy of critical skills and values needed for lawyering was the product of its efforts to resolve how best to “narrow the gap” between the practicing bar and recent law school graduates. Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic's Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission*, 16 S. CAL. REV. L. & SOC. JUST. 23, 31 (2006). Central to the MacCrate Report is the concept that legal education is a continuum and an acknowledgment that “both the organized bar and the law schools suffer from [an] apparent failure of the two cultures to work in the areas of common interests.” NARROWING THE GAP, *supra* note 4, at 5. It is possible to view MacCrate's recommendation for law school based skills training as offloading to the law schools a function historically performed on the job, following graduation and licensure. Under that interpretation, law schools must train students for potential big firm practice in offices where the profit incentive leaves little time for skills training. However, this view is undercut by the MacCrate Report's finding that it is particularly the solo and small firm practitioners who have an increased need for law school skills training: “Graduates entering such practice seldom have an experienced attorney to whom they may go for advice, nor do they have access to training programs in which to learn on the job.” *Id.* at 47. “[T]he smaller the setting in which beginning lawyers practice, the more they rely on their legal education for learning practice competencies.” *Id.* (emphasis added). The MacCrate Report assessed the need for skills training in diverse practice settings: sole practitioner and small firm, new providers of legal services, large and middle-sized firms, in-house counsel, and lawyers for the government. *Id.* at 29. It expressly cautioned that “American law schools cannot reasonably be expected to shoulder the task of converting even very able students into full-fledged lawyers.” *Id.* at 4. And yet, the Report urged law schools to be more aggressive in developing a coherent agenda of skills instructions and to work together with the organized bar to shape a continuum of learning. *Id.* at 259.

22. Kevin J. Wilson, *Introductory Remarks*, 23 PACE L. REV. 513, 513 (2003). In the wake of the MacCrate Report, law school clinics and skills courses continued to proliferate. Gary A. Munneke, *Legal Skills for a Transforming Profession*, 22 PACE L. REV. 105, 135 (2001).

23. ROY STUCKEY & OTHERS, *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* viii (2007) [hereinafter *BEST PRACTICES*].

professional skills instruction in American law schools.”²⁴ As with its predecessor, the MacCrate Report, *Best Practices* embraced the concept that legal education is designed to prepare law students for practice as members of a public profession.²⁵ Its underlying assumption—that “[m]ost new lawyers are not as prepared as they could be to discharge the responsibilities of law practice”—is consistent with the research results found in the MacCrate Report more than a decade earlier.²⁶ *Best Practices* calls on law schools to expand their educational goals and to improve the competence and professionalism of their graduates.²⁷ It blames the shortcomings of legal education, in part, for the legal profession’s failure to abide by its obligation to provide access to justice.²⁸

The profession was not alone in turning an assessing eye to American law schools and the process of preparing law students to fulfill their future roles as members of a learned profession. In 2007, the Carnegie Foundation²⁹ released *Educating Lawyers: Preparation for the Profession of Law* (Carnegie Report), which contained numerous recommendations for improving the professional education of lawyers as well as recognition for those aspects of American legal education being done effectively.³⁰ Significantly, while praising doctrine acquisition via the Socratic method, the Carnegie Report stressed that law school education should umbrella more than “learning to think like a lawyer.”³¹ Rather, law school should be

24. Robert MacCrate, *Forward* to ROY STUCKEY & OTHERS, *supra* note 23, at vi.

25. *Id.* For a sample of reactions to its calls for changes in legal education, compare Antoinette Sedillo Lopez, *Leading Change in Legal Education—Educating Lawyers and Best Practices: Good News for Diversity*, 31 SEATTLE U. L. REV. 775, 776 (2008) (advocating its recommendations for change); with Ira P. Robbins, “*Best Practices*”: *What’s the Point?*, 16 CLINICAL L. REV. 321, 321 (2009).

26. BEST PRACTICES, *supra* note 23, at 1.

27. *Id.* at 13–15, 17–19. It recommends that context-based education be used throughout the curriculum, consistent with contemporary adult learning theory. See also Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240, 253–54 (2009) (showing an example of how *Best Practices* recommendations could be applied in an externship clinical course).

28. BEST PRACTICES, *supra* note 23, at 18 (citing DEBORAH RHODE, *PRO BONO IN PRINCIPLE AND IN PRACTICE* 20 (2005) (stating that approximately 50,000 lawyers at the nation’s 100 most financially successful firms averaged less than ten minutes per day on pro bono activities); Lawrence J. Fox, *Should We Mandate Doing Well by Doing Good?*, 33 FORDHAM URB. L.J. 249, 250 (2005) (stating similar data)).

29. The Carnegie Foundation for the Advancement of Teaching engages in comparative studies examining “how members of different professions are educated for their responsibilities in the communities they serve.” SULLIVAN ET AL., *supra* note 14, at inside cover.

30. See generally *id.*

31. *Id.* at 3, 186. While stressing that law schools should do more to help students

viewed as the portal to “becoming” a lawyer, not merely thinking like one.³² The Carnegie Report views law school as a series of three critical apprenticeships: (1) knowledge acquisition, (2) skills (or core competencies) development, and (3) ethics formation.³³ The result: the Carnegie Report builds on and supports both the MacCrate Report and *Best Practices*, and law schools experience increased pressure for change.

Regardless of whether a law school is responding to internal, external or combined pressures, there are common challenges posed by a commitment to use the Juris Doctor program as a vehicle to increase access to justice: the lack of a uniform solution, funding limitations, and competing resources with the individual law school’s environment. Certainly, there is no one-size-fits-all solution. Law schools have diverging missions, and as a result, differing curricular emphases. Additionally, community needs vary, as does the landscape of available area service providers.

The funding portion of the equation has both pragmatic and moral overtones. Even in pre-recession times, at the end of the day, clinical education/service is often being funded from tuition revenue, which translates to increased student borrowing.³⁴ But owing to the often small size of clinic classes, not all students whose borrowing will

train for practice and develop professional identity, the report gives high marks to the role of law schools in developing analytical thinking:

[L]aw schools are impressive educational institutions. In a relatively short period of time, they are able to impart a distinctive habit of thinking that forms the basis for their students’ development as legal professionals. . . . Within months of their arrival in law school, students demonstrate new capacities for understanding legal processes, for seeing both sides of legal arguments, for sifting through facts and precedents in search of the more plausible account, for using precise language, and for understanding the applications and conflicts of legal rules. Despite a wide variety of social backgrounds and undergraduate experiences, they were learning, in the parlance of legal education, to “think like a lawyer.” This is an accomplishment of the first order that deserves serious consideration from educators of aspirants to other professional fields.

Id. at 186.

32. *Id.* at 26, 185.

33. *See id.* at 4.

34. Ironically, projected tuition increases to fund full student body access to live-client clinics might have the unintended consequence of further eroding access to public service careers upon graduation. William D. Underwood, *The Report of the Wisconsin Commission on Legal Education: A Road Map to Needed Reform, or Just Another Report?*, 80 MARQ. L. REV. 773, 782 (1997). Higher tuition translates to higher borrowing. Higher debt loads impact career choices; the capacity for loan repayment becomes a tipping point in selecting post law school employment. For some students, higher tuition may utterly block entry to law school and the profession if they are unable to borrow tuition dollars.

finance the clinic's operation will have an opportunity to participate in it.

Clinical legal education, the primary vehicle for access to justice projects, also faces competing resource allocations from within the law school itself on a least three fronts. The first pressure point is student course loads. The ABA Accreditation Standards have brought new pressures to bear on issues surrounding bar passage.³⁵ In some law schools, this is impacting students' choices of electives, with students exercising their "elective" credits in favor of bar examination tested topics.³⁶ In other law schools, the increased emphasis on bar passage

35. Standard 509 requires law schools to publish basic consumer information that fairly and accurately reflects actual practice. Interpretation 509-1 lists bar passage data among categories of consumer information that is considered "basic." ABA STANDARDS, *supra* note 10, at 42.

36. State boards of law examiners publicize topics covered both in the Multistate Bar Examination and any state-specific additional testing. In Texas, for example, the Board of Law Examiners provides the following public information:

Multistate Subjects

- Constitutional Law
- Contracts
- Criminal Law
- Evidence
- Real Property
- Torts

Multistate Performance Test

The Texas Bar Examination includes the Multistate Performance Test (MPT), a skills test designed to assess the examinee's ability to use fundamental lawyering skills in a realistic situation. During the test, each examinee will receive a "file" of source documents and a "library" of cases, statutes, and rules. Using these materials, the examinee will be required to perform an assigned lawyering task, such as writing a memorandum to a supervising attorney, a letter to a client, a contract provision, a proposal for settlement, or a closing argument. . . .

Texas Essay Subjects

- Business associations, including agency, corporations, partnerships, limited liability companies and professional associations
- Trusts and guardianships
- Wills and administration
- Family law
- Uniform Commercial Code
- Consumer rights, including DTPA and insurance
- Real property, including oil and gas

Cross-Over Topics

- Income, estate, and gift tax issues, to be included where appropriate, as an element of questions in other subjects, such as family law, oil and gas, wills, etc.
- Bankruptcy, to be included where appropriate, as an element of questions in other subjects, such as family law, wills and estates, real property, etc.

Procedure And Evidence Subjects

- Texas civil procedure and evidence, including jurisdiction

may impact a student's eligibility to participate based on the students existing grade point average.³⁷

The second pressure point is simply the matter of physical plant space. For some older law schools, space has become a form of currency. The final pressure point surrounds the issue of faculty allocation. With its low student to faculty ratios,³⁸ clinical teaching has always been an expensive commitment,³⁹ even before the actual costs of providing the representation are factored into the budget.

*B. Role of State Bar Leadership, Access to Justice Commissions, and Foundations in Increasing Access to Justice*⁴⁰

In each model discussed in Part III of this Article, bar leadership was essential. In some instances, leadership takes the form of identifying issues; at other times, it provides the impetus for bringing stakeholders to the table.⁴¹

The Access to Justice Commission and Access to Justice Foundation both have played a vital role in mobilizing law school initiatives. For example, the Texas Access to Justice Commission (TAJC)⁴² is a creation of the Texas Supreme Court, which also

• Federal and Texas criminal procedure and evidence

See Texas Board of Law Examiners, Appendix A—Texas Bar Examination Subjects, <http://www.ble.state.tx.us/Rules/NewRules/appendixA.htm> (last visited Aug. 10, 2010).

37. At South Texas College of Law, a student with a cumulative grade point average less than a 2.5 is placed on academic supervision and may not enroll for upper division elective courses until having completed at least 30 hours of course work having direct bar content. S. TEX. COLL. OF LAW, STUDENT HANDBOOK 62 (2010), available at <http://www.stcl.edu/registrar/handbkk0910c.pdf>.

38. The MacCrate Report estimates that clinics have an average student-faculty ratio of eight-to-one, simulation courses are more than double that in size, and neither compares with the paradigm of one professor in a large lecture hall of seventy-five to 100 students. NARROWING THE GAP, *supra* note 4, at 250.

39. Consider a traditional doctrinal class with a ninety-to-one student faculty ratio in contrast with the eight-to-one ratio of a clinic, then imagine the administrative response. Richard A. Matasar, *The MacCrate Report from the Dean's Perspective*, 1 CLINICAL L. REV. 457, 478 n.48 (1994) (teaching a significant number of students in small sections requires a large faculty).

40. This Article only addresses the role of these key players in programs focused on law student participation. Many such entities have been at the forefront of access to justice initiatives and funding as they relating to providing direct services.

41. In the Minnesota model, the Law School Initiative Committee's work in the early 1990s ultimately lead to the presence of the Minnesota Justice Foundation in all law schools in the state. In the Texas example, the former president of the state bar chaired the Access to Justice Commission and was able to wield that degree of influence and persuasion necessary to call all nine Texas law school deans to a meeting, have them attend, and issue a challenge that they would respect.

42. The Texas Access to Justice Commission was created by the Texas Supreme

oversees the state's unified bar. The Commission, initially lead by former state bar president James P. Sales, adopted a multi-faceted approach to increasing access to justice for poor Texans; law school specific initiatives formed only a part of the larger array, which included corporate counsel involvement, large and mid-size law firm recruitment, and worked directly with legal service provider entities.⁴³ In Minnesota, the Minnesota Justice Foundation (MJF) is a stand-alone non-profit, created twenty years ago, with close ties to the bench, organized bar, and practicing attorneys.⁴⁴

Just as law schools worry about funding for clinical legal education and expanded justice initiatives, so do their external counterparts in this enterprise, be they bar associations, commissions, or non-profits. The sources of possible funding are not limitless, and access to justice programs must compete with a host of other worthy projects. Frequently identified alternatives from the bar's perspective are increased bar dues, attorney donations, or filing fee add-ons. Alternatively, they seek private grant funding or approach the issue from a position that the law schools will fund any collaborative efforts.

When the discussion shifts to the post-Juris Doctor arena, bar associations' fiscal contributions to expanded access sometimes become more obvious. In addition to funding discrete projects, many bar groups work to increase the likelihood that recent graduates will see a public interest career as a viable practice option.⁴⁵ The primary vehicle for this "equalization" among career options is via loan repayment assistance programs (LRAPs). Some of these programs are bar, commission, or foundation sponsored,⁴⁶ while others are law

Court in 2001, and it develops, coordinates, and implements policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to the civil justice system in Texas. *See* About Us, Texas Access to Justice Commission, <http://www.texasatj.org/aboutus> (last visited Aug. 10, 2010). The Texas Access to Justice Foundation is the leading funder of legal aid in Texas. On behalf of the Supreme Court of Texas, it administers a variety of funds ranging from interest on lawyers trust accounts to voluntary contributions. *See* Texas Access to Justice Foundation, <http://teajf.org/> (last visited Aug. 10, 2010).

43. *See* Accomplishments, Texas Access to Justice Commission, <http://www.texasatj.org/accomplishments> (last visited Aug. 10, 2010).

44. *See* Minnesota Justice Foundation, <http://www.mnjustice.org/> (last visited Aug. 10, 2010).

45. In 2008, student debt load was estimated at more than \$90,000 for private school students. *See* Legal Education Statistics, ABA, <http://www.abanet.org/legaled/statistics/stats.html> (last visited Aug. 10, 2010) (follow hyperlink "Average Amount Borrowed").

46. The Texas Access to Justice Commission created a loan repayment assistance program in 2003. More than ninety attorneys now participate in the program; they are employed by twenty-three different legal services organizations across the State. *See* Texas

school sponsored.⁴⁷

III. EXAMPLES FROM THE FIELD

The two models selected for review were chosen for their variations in organizational structure, their differing origins, their distinct program emphasis, and the course of their growth. Both share the common mission of increasing access to justice.

A. *The Minnesota Model*

The collaborative partners in this model are the law schools, legal service providers, and the private bar. Their efforts are “umbrellaed” by MJF, a stand-alone non-profit created in 1982 with a goal of “meeting the legal needs of the low-income community.”⁴⁸ It exists independently from the law schools and the service providers and has a statewide access to justice mission; however, it does not provide direct legal services.⁴⁹ The Minnesota Justice Foundation maintains a presence at all four Minnesota law schools,⁵⁰ with each law school donating office space and one faculty member to teach a course every four years. Efficient and effective at law student placement,⁵¹ MJF provides a one-stop shop for students and a single contact person for volunteer supervisors from the ranks of area service providers. During the academic year, four primary collaborative projects fuel this model: (1) the law school public service program, (2) statewide assisted pro se clinics, (3) volunteer independent research projects, and (4) the legal scholarship for equal justice course.⁵² The Minnesota Justice Foundation also offers summer stipends for twenty law students working at any of seventeen non-profit agencies throughout the state.⁵³

Student Loan Repayment Assistance Program, Texas Access to Justice Foundation, <http://www.texasatj.org/SLRAP> (last visited Aug. 10, 2010).

47. See LRAPs, *supra* note 3 (showing that more than 100 law schools now offer some type of service-based loan repayment assistance program).

48. Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “About Us”).

49. *Id.* (follow hyperlink “About Us” then “Mission and Core Values”).

50. *Id.* (follow hyperlink “About Us” then “History”). The four Minnesota law schools are Hamline University School of Law, University of Minnesota Law School, University of St. Thomas School of Law, and William Mitchell College of Law. *Id.*

51. More than 25,000 hours of law student volunteer time are generated annually. For example, MJF reports that in 2008-2009, student volunteers performed 52,665 hours of service—work equivalent to more than twenty-five full-time lawyers. Minnesota Justice Foundation, *supra* note 44.

52. *Id.* (follow hyperlink “Programs”).

53. The Minnesota Justice Foundation clerkship students commit to 400 hours of

1. Law School Public Service Program

The Law School Public Service Program (LSPSP) matches law students with over forty legal service providers for volunteer service.⁵⁴ The program was launched in the fall of 1999 and encourages all Minnesota law students to complete fifty hours of law-related volunteer service while in school.⁵⁵ This program began as a collaborative effort of the Foundation, all Minnesota law schools (at that time there were only three), the Minnesota State Bar Association, and more than forty legal service providers.⁵⁶

All four Minnesota law schools are located in the Twin Cities of Minneapolis and St. Paul; however, the program uses service providers across the State. The Law School Public Service Program is a vehicle for law-related volunteer service; it is not an academic course.⁵⁷

2. Assisted Pro Se Clinics

The Assisted Pro Se Clinics use law students to maximize the effectiveness and efficiency of volunteer attorneys in rural areas.⁵⁸ The goal is to leverage student volunteers so that local practitioners are able to serve more clients.⁵⁹ In the typical scenario, six to eight students participate in a one-day project.⁶⁰ The Minnesota Justice Foundation carries malpractice insurance for student volunteers and, prior to the project, conducts a two-hour training on the subject

legal work over the summer, generally forty hours a week over a ten-week term. Stipends range from \$4,000 to \$4,500 depending on the geographic area of the placement. The Minnesota Justice Foundation raises funds, solicits participating agencies, administers the application and interview process, and conducts an initial orientation and training for the accepted student clerks. Although each agency selects its own interviewees, each agency is required to interview multiple applicants from all four Minnesota law schools, including at least one first year student. In its quarter century of operation, MJF summer clerks have provided 199,600 hours of service to more than 22,000 clients. *Id.* (follow hyperlink "Programs" then "Summer Clerkship Program").

54. *Id.* (follow hyperlink "Programs" then "Law School Public Service Program").

55. *Id.*

56. *Id.*

57. The Law School Public Service Program "encourages incorporation of public interest issues into the classroom." It suggests, for example, that a contracts class might expand to "include a presentation from a legal services attorney concerning rent-to-own issues." *Id.*

58. VOLUNTEER LAWYERS NETWORK, ANNUAL REPORT 2005-2006, at 4 (2006), available at <http://www.volunteerlawyersnetwork.org/files/AnnualReport2006.pdf>.

59. *Id.*

60. Variations on this model include a multi-day project conducted over Spring Break.

matter of the project.⁶¹

The Minnesota Justice Foundation usually partners with four or five legal services agencies for these projects. It is those agencies that perform the initial intake and screening, coordinate client appointments, and recruit volunteer attorneys.⁶² Although law schools provide the “raw material” of student volunteers, the schools have no further responsibility. For example, the law schools provide no teaching, no training, and no supervision of students in the field. It is MJF which recruits and trains the law student volunteers.

3. *Volunteer Independent Research Project*

In this project, law students research short topics as needed by legal services professionals.⁶³ The Volunteer Independent Research Project (VIRP) is used by both legal service staff attorneys and volunteer attorneys.⁶⁴ The Minnesota Justice Foundation matches student volunteers through internet postings.⁶⁵ As with the Assisted Pro Se Clinics, the function of the law schools is solely to provide the “raw material” of student volunteers.⁶⁶

4. *Legal Scholarship for Equal Justice*

The Legal Scholarship for Equal Justice project (LSEJ) was formed in 2002 in order to encourage a wide variety of legal scholarship that would have a practical and immediate impact on equal justice.⁶⁷ Unlike the Assisted Pro Se Clinics or VIRP, in this model, the law schools play a more active role. The centerpiece of this project is a rotating “Equal Justice Seminar” taught once each academic year by professors or adjunct professors at one of the four

61. Typically case types for a project include divorce or child support modification.

62. Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “Programs” then “Law School Public Service Program”).

63. *Id.* (follow hyperlink “Programs” then “Law School Public Service Program” then “Volunteering”).

64. *Id.*

65. *Id.*

66. For example, law school faculty members are not reviewing the content of the research provided by the students. *See id.*

67. Legal Scholarship for Equal Justice Home Page, <http://www.lsej.org/index.cfm?pagename=homepage> (last visited Aug. 10, 2010) (follow hyperlink “More About LSEJ”). In addition to “traditional” scholarship such as law review articles and notes, LSEJ includes within its definition of scholarship activities ranging from independent research projects and term papers to amicus briefs and draft legislation. *Id.*

Minnesota law schools.⁶⁸ Enrollment is limited to four students from each law school, for a total class size of sixteen students.⁶⁹ The curriculum is determined by the teaching faculty.⁷⁰ Participating students research topics with the potential to make a “practical and immediate impact on equal justice.”⁷¹ Potential topics are submitted to the LSEJ website by legal services attorneys.⁷² Participating students work actively with the attorney submitting the topic, who serves as “field contact” and helps to supervise the project.⁷³

In addition to class meetings and research, students spend approximately twenty hours on field work to gain context for their research projects.⁷⁴ The course culminates with a free Continuing Legal Education (CLE) event open to the public, at which students present their work.⁷⁵ The completed research projects are also posted on the LSEJ website.⁷⁶

This is an active collaboration between MJF, the law schools, and legal service providers. An LSEJ Advisory Committee provides project guidance and expands the sources of input beyond the three main constituencies.⁷⁷

68. *Id.* (follow hyperlink “Equal Justice Seminar”). The course is not an internship, rather it is offered as a three-credit seminar.

69. Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “Programs” then “Legal Scholarship for Equal Justice”).

70. *Id.* Class sessions focus on the development of project topics, as well as research skills, policy analysis, problem solving, and working collaboratively.

71. Legal Scholarship for Equal Justice Home Page, *supra* note 67 (follow hyperlink “More About LSEJ”).

72. Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “Programs” then “Legal Scholarship for Equal Justice”). Recent research topics include: *Duty of Real Estate Professionals to Customers with Limited English Proficiency*; *Disparate Impact Proof of Housing Discrimination Under the MHRA*; *SSI/RSDI Disability—The “Regional Economy” Standard Applied to Indians Living on Indian Reservations*; *Credit Scoring*; and *Implementing a Practicing Lawyer’s Duty to Make Reasonable Accommodations for Persons with Disabilities*. Legal Scholarship for Equal Justice Home Page, *supra* note 67 (follow hyperlink “Research Topic List”).

73. Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “Programs” then “Legal Scholarship for Equal Justice”).

74. *Id.*

75. Legal Scholarship for Equal Justice Home Page, *supra* note 67 (follow hyperlink “Equal Justice Seminar”).

76. *See id.* (follow hyperlink “Completed Works”).

77. *Id.* (follow hyperlink “More About LSEJ”). The Advisory Committee is composed of deans and faculty from the four Minnesota law schools, a justice from the Minnesota Supreme Court, the State Public Defender, directors of Legal Services programs, representatives of the Minnesota Bar Association, and practicing attorneys from the private, public, and non-profit sectors. *Id.*

B. *The Texas Model*

Entering its fifth year, the Texas Access to Justice Internship Program (TAJIP)⁷⁸ is a collaboration among the TAJC, all nine Texas law schools,⁷⁹ and traditional legal services providers. The program was created in 2005 and implemented in 2006 with the goal of placing summer interns with existing legal service providers in historically under-served areas of Texas.⁸⁰ From an initial pilot program of six law students serving along the Texas-Mexico border, TAJIP now seeks to place twenty-seven students in the field, across the State.⁸¹ Its twin goals are to provide service and educate students while allowing each participating law school the autonomy to award academic credit or recognize student participation consistent with that school's mission and policies.⁸² These goals have informed all aspects of the program's design, from its original two-year pilot to its present structure.

At its most basic, the "service" component is a question of math: participating students each commit a minimum of 280 hours of on-site work.⁸³ However, "service" also has an administrative feature. For example, by providing a coordinated recruitment process, TAJIP became the single entry portal for legal service providers. This accomplished two important results. First, it ended "placement competition" among the law schools. Second, it streamlined the process for the service providers, some of which have only small offices with limited staff. Schools selected the participating students and TAJIP notified the service providers who would be coming and when. Individual offices were no longer tasked with conducting interviews and attempting outreach at campuses often far removed from their offices.

78. Access to Justice Summer Internship Program, <http://www.texasatj.org/Internship> (last visited Aug. 10, 2010).

79. The nine law schools in Texas are: Baylor University School of Law; Southern Methodist University, Dedman School of Law; Saint Mary's University School of Law; South Texas College of Law; Texas Tech University School of Law; Texas Wesleyan University School of Law; Texas Southern University, Thurgood Marshall School of Law; University of Houston Law Center; and the University of Texas School of Law.

80. Access to Justice Summer Internship Program, *supra* note 78. These are primarily areas with no nearby law school. As a result, unlike their counterparts in many major metropolitan areas in Texas, legal service providers in these regions are unlikely to have student volunteers and interns during the academic year.

81. *Id.* (follow hyperlink "Program Description").

82. *Id.*

83. *See id.* (requiring students to work full time—forty hours per week—for at least seven weeks). With twenty-seven participating students in TAJIP Summer 2010, the minimum number of service hours provided will exceed 7,500.

The education goal has several components. First, it increases law student awareness of need—both through the students actually selected and serving, and through the publicity at each law school surrounding the recruitment process. Increased student awareness of the unmet need for legal services in Texas has future ramifications, as today’s law students will ultimately become tomorrow’s practitioners and lawmakers. Second, because the program incorporates both fieldwork and an academic component, individual law schools may elect to award academic credit for this externship experience.⁸⁴

1. Background

This project grew out of the TAJC’s “Law School Advisory Committee.”⁸⁵ “In 2005, the deans of all of the Texas law schools convened to discuss how the schools could work together to better increase access to justice.”⁸⁶ They decided to create a new model of a jointly administered academic internship focused on providing direct legal services. The project was expanded and modified in each of the two “pilot” years.⁸⁷ The goal was to create a model that would blanket the State of Texas and involve students from all of its law schools.⁸⁸

84. The stated educational objectives of the internship program are:

- (1) To develop students’ lawyering skills through participation in and observation of the legal work performed in their placements;
- (2) To expose students to issues of professional responsibility and ethics with the context of practice;
- (3) To enhance students’ understanding of how principles learned in law school apply to the real-world resolution of legal problems;
- (4) To give students the opportunity to participate in and reflect upon legal institutions and the lawyering role;
- (5) To permit students to gain practical experience in specialized areas of the law;
- (6) To instill fundamental values of the legal profession, including providing competent representation, ensuring access to the courts, promoting justice, and committing to an ongoing process of professional self-development.

Id.

85. Texas Civil Rights Project Newsclip: Collaborative Internship for South Texas, http://www.texascivilrightsproject.org/newspub/clip_060728_stp_interns.html (last visited Aug. 10, 2010).

86. Access to Justice Summer Internship Program, *supra* note 78 (follow hyperlink “Program Description”).

87. TEX. ACCESS TO JUSTICE COMM’N, TEXAS ACCESS TO JUSTICE COMMISSION’S REPORT TO THE SUPREME COURT OF TEXAS FOR THE PERIOD MAY 1, 2008 THROUGH NOVEMBER 30, 2008, at 7 (2008), available at <http://www.texasatj.org/files/file/Supreme%20Ct%20Report%20Dec%202008%20w%20exhibits.pdf> [hereinafter TEXAS ACCESS TO JUSTICE COMMISSION’S REPORT THROUGH NOVEMBER 30, 2008].

88. Tex. Civil Rights Project, *supra* note 85.

a. Year One

The first internship was held in South Texas during the summer of 2006, with eight law schools each sending one student.⁸⁹ Two law schools assigned full-time faculty members to the project, bearing the costs for their travel; additionally, two other law schools sent faculty members as guest speakers for discrete topics.⁹⁰ Class sessions were held on-site at the largest of the area service providers, and some students commuted more than 150 miles each way to attend class.⁹¹ The Texas Access to Justice Foundation provided small cost of living stipends for the students.

b. Year Two

In its second year, the pilot project expanded its geographic reach to include East Texas.⁹² Law school student participation increased to two law students from each school, with 80% of the state's law schools participating. To address the greatly enhanced geographic regions covered, the class component was modified to include a mandatory orientation⁹³ and concluding class in the state capitol, supplemented with weekly on-line classes conducted by the two original founding faculty members.⁹⁴ Adding a full day Orientation increased faculty

89. *Id.* Student interns served primarily in the "Valley" region and adjacent counties. The "Valley" refers to a five county region in the southern part of Texas, along the Texas-Mexico border. Students were placed in various local offices of Texas Rio Grande Legal Aid and the Texas Civil Rights Project. The placement locations covered a geographic area spanning from Brownsville to Laredo, a distance of more than 200 miles. *Id.*

90. *Id.*

91. Each of the five classes were divided between a substantive law topic and a skills or professionalism topic. For example, a three-hour class session might have a sixty-minute segment on family law issues in Texas generally and among the poverty population specifically, followed by a sixty-minute segment on interviewing and counseling in a family law context with clients below the national poverty index stressing cultural competencies, followed by a thirty minute discussion of pending cases using a "grand rounds" model, and concluding with an exercise focused on habits of self reflective practice.

92. The added geographic area spanned from Beaumont to Tyler, a distance of more than 193 miles. See *Access to Justice Commission Report to Supreme Court of Texas*, LEGALFRONT, Winter 2007, at 3.

93. Cost of student travel and housing for orientation was provided by the project. See *Access to Justice Internship Program*, UPDATE, (Tex. Access to Justice Comm'n, Austin, TX) Dec. 2007, at 3, available at <http://www.texasatj.org/files/file/TATJC%20letter%20December%202007.pdf>.

94. This class followed the contemporary externship model: faculty guided discussions; reflective journals by students; periodic self-assessment; readings targeted to either skills acquisition and development or access to justice; and professionalism issues. Individual student writings and students' confidential weekly journals were submitted electronically, reviewed by the faculty, and followed up with further emails. Class discussions became virtual rather than face-to-face in real time. Students were required to

participation by more law schools. Additionally, new sources of funding were secured and student stipends were increased.⁹⁵

c. Year Three

Once again, the geographic reach of the program was expanded, and North Texas was added to the array. Student participation also increased to two students from each law school, and for the first time all nine Texas law schools were represented among the nineteen students selected.⁹⁶ The mandatory orientation and on-line class format developed in Year Two was continued, with the orientation being held in Austin at the end of May.⁹⁷

d. Year Four

Consistent with the expansion of coverage experience in every year of operation, TAJIP added West Texas to the geographic reach of the program, thereby achieving state-wide coverage of historically underserved areas.⁹⁸ Once again, nineteen students were selected, and 100% of the Texas law schools were represented.⁹⁹

In part as a result of increased geographic coverage and partly

respond to topics selected weekly by faculty both via an original response and two reaction responses to classmate postings. To capture, albeit imperfectly, the dynamic of class discussion, student postings were designed to be brief, with a two-paragraph maximum. However the class was asynchronous, so the open period for postings lasted over the course of several days.

95. Author John Grisham donated his honorium as the headline speaker at the State Bar of Texas annual meeting to TAJIP stipends. The Texas Access to Justice Internship Program also received a multi-year grant from the Texas Bar Foundation. Student stipends along with travel and meal costs associated with orientation were administered by the Texas Access to Justice Foundation. See *Access to Justice Internship Program*, UPDATE, *supra* note 93, at 3; *Best-Selling Author John Grisham Donates \$20,000 to Texas Access to Justice Commission Internship Program*, BUSINESS WIRE, May 22, 2007, http://www.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20070522006398&newsLang=en.

96. TEXAS ACCESS TO JUSTICE COMMISSION'S REPORT THROUGH NOVEMBER 30, 2008, *supra* note 87, at 7.

97. TEX. ACCESS TO JUSTICE COMM'N, TEXAS ACCESS TO JUSTICE COMMISSION'S REPORT TO THE SUPREME COURT OF TEXAS FOR THE PERIOD DECEMBER 1, 2007 THROUGH APRIL 30, 2008, at 7 (2008), available at <http://www.texasatj.org/files/file/Supreme%20Court%20Report%20May%202008%20-%20Report%20Only.pdf>.

98. TEX. ACCESS TO JUSTICE COMM'N, TEXAS ACCESS TO JUSTICE COMMISSION'S REPORT TO THE SUPREME COURT OF TEXAS FOR THE PERIOD MAY 1, 2009 THROUGH NOVEMBER 30, 2009, at 9 (2009), available at <http://www.texasatj.org/files/file/Supreme%20Ct%20Report%20Dec%202009%20w%20exhibits.pdf>.

99. *Id.*

because law students from the nine Texas law schools were available to begin their internships at different start times, TAJIP redesigned and streamlined the orientation component. Orientation was conducted at three separate locations—Austin, Dallas, and Houston—on three distinct dates during the month of March prior to the conclusion of the spring semester. Regional orientations increased the number and diversity of participating faculty guest speakers. As with Years Two and Three, weekly class meetings continued on-line with the founding faculty selecting assigned readings, moderating on-line discussions, reviewing written assignments, meeting with field supervisors, and evaluating each student's performance.

2. *Faculty, Curriculum, and Credit*

During its four years of operation, TAJIP has been the primary responsibility of the original two faculty volunteers, augmented by TAJC.¹⁰⁰ The faculty volunteers' responsibilities include obvious tasks, such as conducting orientation, teaching the class component, maintaining weekly contact with student interns, interacting with supervisors, conducting site visits, and assessing student performance.¹⁰¹ However, it also includes a host of "hidden" administrative tasks such as initiating placement opportunities and matching students with supervisors, generating application forms, and reporting annually to the TAJC's "Law School Advisory Committee."

Guest lecturers were used extensively at orientation, particularly under the full day model of Year Two, but they were also utilized in the streamlined model of Year Three. These guests included Justices of the Texas Supreme Court, legal service providers, other faculty, and leaders of the Bar. Additionally, during Year One, when the class met weekly face-to-face, guest lecturers included faculty and practitioner presenters on discrete areas of substantive law.

The curriculum has remained relatively constant even while the delivery method has undergone radical change. The major class groupings are skills training, justice topics, and discrete legal issues within the context of the students' summer internship;¹⁰² in this way,

100. The Texas Access to Justice Commission maintains the program's website and administers student stipends. See TEXAS ACCESS TO JUSTICE COMMISSION'S REPORT THROUGH NOVEMBER 30, 2008, *supra* note 87, at 8.

101. See Access to Justice Summer Internship Program, *supra* note 78 (follow hyperlink "Program Description").

102. For example, "skills training" includes interviewing and counseling, negotiation, and dealing with cross-cultural barriers. These topics are usually introduced during orientation and may be reprised as weekly discussion topics. "Justice topics" may include

they mirror the content of many law school externship classes. One constant throughout all four years of the program has been the weekly journal and reflective writing component.¹⁰³

The Texas Access to Justice Internship Program does not dictate a lock step approach to academic credit. Each individual institution decided whether to award academic credit and how much.¹⁰⁴ An alternative to academic credit is pro bono program credit, which is also the decision of each individual law school. Another way in which student experience may be inconsistent concerns the awarding of stipends. Some participating law schools supplement the stipend provided by TAJC, while others do not.

3. Placement and Students

The primary placement sites for TAJIP have been legal service corporation offices, but placements with other non-profit entities have been optional since the program's inception.¹⁰⁵ Office size has ranged from the one-attorney location to a mid-size firm model. Many of the offices are small, with limited resources.¹⁰⁶ The unifying characteristic

cause-lawyering as a career, poverty and access to justice issues, and observation of lawyer performance. Discrete legal issues may center on professional responsibility, family law, or immigration, all topics typically not yet studied by the summer intern who has only completed the first two semesters of law school.

103. Students are not permitted to "opt out" of this requirement, even if they are not receiving academic credit for their work from their home school.

104. The academic and fieldwork components of the program are designed to satisfy all of the ABA requirements for academic internships. In addition to the assigned readings, on-line discussions and written assignments of the class component, the faculty leaders conduct small group meetings and site visits in numerous regional locations during the summer and maintain contact with students via email and telephone. Each student is evaluated, in writing, by the supervising attorney at the conclusion of the internship. The faculty leader's evaluation of each student's performance is forwarded to the faculty contact at the home school for determinations regarding academic credit. See Access to Justice Summer Internship Program, *supra* note 78 (follow hyperlink "Program Description").

105. For summer 2010, potential placements included the offices of *Legal Aid of Northwest Texas* (with placements in Abilene, Amarillo, Midland, Odessa, Plainview, San Angelo, Waxahachie, and Wichita Falls); *Lone Star Legal Aid* (with placements in Angleton, Beaumont, Bryan, Longview, Nacogdoches, Paris, Texarkana, and Tyler); *Texas Civil Rights Project* (with placements in El Paso and San Juan); or *Texas Rio Grande Legal Aid* (with placements in Corpus Christi, Del Rio, Eagle Pass, Edinburg, El Paso, Laredo, and Weslaco). See *id.*

106. As noted by Abner Burnett, former Director of the South Texas Civil Rights Project in San Juan, Texas: "We are a small office with few resources and we worked on several very complex cases this year and the interns were indispensable." Access to Justice Summer Internship Program, *supra* note 78 (follow hyperlink "Prior Year—Student Perspective").

among placements is their location in areas of the state significantly far enough removed from one of the nine Texas law schools that the legal service provider does not receive student volunteer or intern placement during the fall and spring semesters. As described by one supervisor, “It has been difficult, historically, to recruit law clerks to some of the more economically disadvantaged border areas in Texas, so the Access to Justice Internship program has been a blessing to the legal services offices along the border.”¹⁰⁷

There is no typical student profile. Some students are attracted to the program because of their underlying interest in a public interest career.¹⁰⁸ Other participating students do not intend to enter public interest practice, but rather are interested in returning to the area as private practitioners and getting plugged into the local pro bono culture.¹⁰⁹ Still other students are focused on the skills development aspect of the placement.¹¹⁰ For some students, the experience causes them to reassess their career goals and interests.¹¹¹

Some students have second and third language abilities, but not

107. *Id.* (quoting Pablo Javier Almaguer, Branch Manager, Texas Rio Grande Legal Aid of Edinburg).

108. *See id.*

I definitely have greater knowledge and understanding of how to draft legal pleadings, motions, and research, but more importantly, I have been “sucked in” as many said I might, into the greatness that is legal aid. I have always considered public interest an option, but after being able to work hands-on with the daily law practice and interact with clients, it is now a definite option.

Id. (quoting Clarissa Trevino, Texas Wesleyan University School of Law). “The internship reaffirmed my desire to work in public interest law particularly serving low-income communities in Texas.” *Id.* (quoting Amber Van Schuyver, University of Texas School of Law).

109. “Even though I do not plan to practice public interest law after I graduate from law school, I know that I want to work in a law firm that is responsive to the needs of the poor and does a significant amount of pro bono work in the Valley.” *Id.* (quoting Gene Vaughn, Texas Wesleyan University School of Law).

110. “After two semesters of hypotheticals and exams, by the summer after my 1L year I was ready for some practical experience outside the classroom.” *Id.* (quoting Christopher Weimer, University of Texas School of Law).

111. Fallon Hamilton, of Texas Southern University, Thurgood Marshall School of Law, stated that her:

experience . . . is one I will cherish as a turning point for my legal career. When I entered law school, I dreamed of a high dollar career where I would benefit financially but not really benefit personally. When I heard about the . . . program, I admit that I was initially skeptical about applying. Luckily I took a chance . . . and discovered what a rewarding career legal aid provides.

Id.

all.¹¹² Most students are at the end of their first year of law school study, but second year students have participated as well. Central to the program's commitment to law school autonomy within a collaborative model is each school's ability to select its participating students using its own criteria.¹¹³

IV. LESSONS LEARNED

The two highlighted models present strikingly different methods of integrating students and service providers. However, they share a common goal: increasing access by identifying work that law students can provide to supplement work being undertaken by existing providers. In sheer manpower hours alone, their contributions are significant. The two models also share common positive attributes, with attendant benefits. Those common attributes will be considered first, followed by consideration of the strengths and limitations posed by each model.

A. *Common Positive Attributes Shared by Both Models*

The first common attribute is that each model involves commitment on the part of *all* the law schools in their state. This shared commitment produces several collateral benefits. First, it frees valuable time for service providers, relieving them of the tasks of soliciting volunteers and marketing their programs. This increase in

112. Spanish fluency is a requirement for one El Paso placement and a preference for all "Valley" placements. *See* Access to Justice Summer Internship Program, *supra* note 78 (follow hyperlink "Program Description").

113. The Texas Access to Justice Internship Program provides a sample student recruitment poster for each school, together with a sample application form. Some parts of the application form remain constant across the nine law schools. These include: why the applicant is interested in the program; how long the student is willing to commit to the placement (with a seven week minimum and stipends available for twelve weeks); spanish language proficiency; a statement of prior law school clinical experience, such as direct representation clinics, internships, or simulation skills courses; the student's resume and transcript; and a statement of four office location preferences. Other portions of the application are designed to be modified to reflect each institution's contact person and deadlines. How the schools process the applications varies. For example, at some schools, student applications are reviewed by a committee comprised of faculty and students which makes selection recommendations. In contrast, other schools have the teaching clinical faculty make student selections. A third model has the decision made administratively by a dean overseeing public service or professional development or student affairs. In keeping with the wide variety of selection models, the primary program contact person's role within the institution varies greatly. At many law schools, the contact person is a member of the clinical faculty, while at others it is an administrative dean. *Id.* (follow hyperlink "SAMPLE Student Application").

time translates directly into allowing the service provider to focus efforts on the actual provision of legal services. Second, the design of each model offers a single “portal” for the service providers to tap into student participation. This frees the numerous service providers from the onerous task of identifying and establishing relationships with a key contract person at each law school. A third benefit is that all school commitment recasts individual law schools into collaborative partners, thus freeing service providers from the political implications inherent when selecting students from one particular school and not others. It ends a perception of internecine warfare among law schools. Additionally, because all law schools participate, each school experiences peer pressure to stay involved and do its part.

The second common attribute is that both models strive, and succeed, in involving a range of faculty participation. Collateral benefits of broad-based faculty participation include increased ownership in success through an expanded stakeholder base, increased publicity for and awareness of the programs as participating faculty members relate their experiences to their classes, and an increased likelihood that issues of access to justice will be integrated into the core curriculum of courses taught by those professors.

A third common attribute is that both models have explicitly inculcated an awareness of the profession’s responsibility to secure access to justice.¹¹⁴ Participating students soon graduate and become licensed professionals. Following graduation, they have first-hand experience with the ethos of service. A positive volunteer experience increases the probability that they will continue to volunteer in a pro bono capacity, regardless of their ultimate practice setting. In Carnegie Report terms, they have formed a vital portion of their professional identity as part of the education process.

B. Strengths of Each Model

In spite of their shared strengths, each model has attributes that it more singularly represents. The section that follows highlights those aspects of each program that deserve consideration for replication in

114. The MacCrate Report’s second value of “[s]triving to [p]romote [j]ustice, [f]airness, and [m]orality” is a recognition that members of the legal profession bear a special responsibility for the quality of justice. *NARROWING THE GAP*, *supra* note 4, at 213. Included within that value is the explicit recognition that lawyers must contribute “to the [p]rofession’s [f]ulfillment of its [r]esponsibility to [e]nsure that [a]dequate [l]egal [s]ervices [a]re [p]rovided to [t]hose [w]ho [c]annot [a]fford to [p]ay for [t]hem.” *Id.* (emphasis removed). The drive for “profit-maximization” cannot be allowed to eclipse the public aspect of the profession. *Id.* at 215.

other venues struggling to create a multi-law school collaborative partnership.

1. *Minnesota Model*

This program has withstood the test of time; it has more than a quarter century of service and a proven track record. Creation of an external entity—which exists independently of any particular law school or the bar association—provides independence, institutional support, and institutional memory.

Institutional independence is significant because it removes the program from the specter of budget cut backs currently haunting much of higher education. The Minnesota Justice Foundation will continue to exist regardless of the budget priorities of any of the four participating law schools or the forty-plus service providers.

Longevity is important in this context for another reason: as programs are created and become successful, the pattern of collaboration is re-enforced. It becomes easier, in this atmosphere of cooperation, to try new projects and to branch out in new directions. This multiplies the effects of each single project until the whole is larger than the sum of its parts. As new programs are suggested, energies need not be expended on creating relationships of trust, making approaches to potential partners, establishing appropriate boundaries, delineating authority and responsibility, and creating an administrative infrastructure.

Placement of MJF offices at each of the four Minnesota law schools, staffed by MFJ staff attorneys, reaps several direct benefits. First, it signals commitment by each school. Second, an actual presence in each law school keeps the various projects in the forefront of student consciousness. As students begin to explore their professional identity, the offices provide a comfortable venue with someone on the scene who possesses actual knowledge and experience.¹¹⁵ Third, the offices provide support for student MJF chapters at each school.¹¹⁶

115. Although most of the information and forms are on-line and easily accessible via the MJF website, staff members are able to discuss details about different volunteer opportunities and address concerns in real time.

116. Student chapters “provide a forum for students to work together on issues of social justice and professional responsibility.” Minnesota Justice Foundation, *supra* note 44 (follow hyperlink “About Us” then “Board of Directors” then “Student Chapters”). Following the format of most law school affinity-based organizations, the chapters may raise money to support public interest placements, or bring in speakers and organize panels, or coordinate group volunteer opportunities.

The Minnesota Justice Foundation has developed a rich array of programs since it was first incorporated in 1982 by a group of Minnesota law students “concerned about their role within the community.”¹¹⁷ It offers year-round opportunities for student service and a range of programs—some of which are purely voluntary and one that provides an opportunity for students to earn academic credit. Direct and immediate benefit to attorneys engaged in public interest lawyering is supplied through the two research projects. One obvious benefit of VIPR is its potential immediacy, assuming an appropriate turnaround time; the other obvious benefit is the blurring of “geographically undesirable” clerk-free zones. Public interest and pro bono lawyers can access legal research and student time, *regardless* of location. Resource barriers between urban and rural settings begin to crumble. Legal service offices that could not hire clerks or attract volunteers during the academic year because they were just too far away from the Twin Cities no longer face that brain drain.

Through its assisted pro se clinics, the Minnesota model uses delivery methods that are “portable” to various locations around the state. Through its LSEJ seminar, it both memorializes student research efforts for use by future attorneys providing access to justice and reaches directly to the community via its annual, open to the public CLE presentation, which showcases student research results.

2. *Texas Model*

This program has successfully met its goal of reaching into historically under-served areas of the state. The original model, which covered only the southernmost area of the state along a limited stretch of the Texas-Mexico border, has been expanded to far west, north, and east Texas, and thus has proved to be “portable.” While limited to the summer, student placements require intensive emersion and allow for a multi-month commitment. Student participation swells the ranks of service providers beyond the geographic reach of a local law school. Owing to the length of the commitment, it is worth the training effort expended by the service provider on behalf of the intern because there will be hundreds of hours given in return service.

Providing for law school autonomy within a collaborative structure has allowed ownership by each participating school without the need to compromise its individual ethos or curricular ethos. For example, law schools that do not ordinarily offer academic credit for

117. *Id.* (follow hyperlink “About Us”).

clinical internship courses are not required to do so in order to participate as collaborative partners. Schools have the flexibility to create their own student selection methods with their own criteria for selection, such as grade point average, hours completed, or prior public interest service.

Schools have been asked to contribute little hard cash. Rather, their contributions have been in the delegation of people resources—usually only a few days annually—and the occasional use of space. This frees administrators from having to make decisions to fund this program, which only directly impacts three of that school's students each year, at the expense of other “enhancement” programs, which impact more students.

By designing the program to comply with both ABA Standards for externships and clinical *Best Practices*, TAJIP can assure participating law schools that they can elect to award course credit with confidence. Meeting those benchmarks equates to more than a course credit option, however. It also means that the student's experience will be more than a random immersion into practice. Rather, it will be a guided journey in which competencies are assessed and developed, and professional values and identities are formed.

C. *Limitations of Each Model*

Both models face challenges or limitations because of their program design or structure. This section briefly highlights disadvantages of each program that deserve consideration as warning posts for those considering creation of multi-law school collaborations to increase access to justice.

1. *Minnesota Model*

Even though MJF offices are present on campus, there is limited ownership by law schools. Integration into the law school environment is not as rich as it might be were faculty more directly involved. Under the current structure, faculty participation centers primarily on a single faculty member being selected once every four years to teach a seminar. Other players within the law school similarly do not have a direct role—they do not recruit students, they do not select students, and they do not interact with the legal service providers. While they are freed of the burden of having to do so, that freedom bears a cost; they are not stakeholders in the success of the enterprise in quite the same way they would have been had they been required to assume any of those functions.

Only recently has MJF crafted a project with an academic credit component. The vast array of its programs are voluntary and co-curricular. Students have an opportunity to serve, to network, and to experience a practice environment; however, there is no systemic effort to place those experiences in an academic context or to craft a coherent alignment of practice and purpose.

Similarly, the short-term nature of placements, for example, a one-day outreach following a two-hour orientation, may rate high on the “good works” scale but not as high on the educational scale. In fairness, the goal of MJF is not education; rather, it is for students to find practical application for their new skills, meaningful legal experience, and an appreciation for the need and impact of pro bono work. However, the interests of educators need to be linked with the needs of practitioners and those the profession is pledged to serve.¹¹⁸

2. *Texas Model*

It is a relatively new program, and it has grown in scope of geographic coverage and number of participating interns. Those disclaimers in place, TAJIP has been hampered by its temporal limitation—summers only. It has been hampered in its efforts to recruit students by the costs of student relocation for seven to twelve weeks and the paucity of short term housing available in placement locations. It has been further hampered by the varying degrees of law school recruitment and support.

Although it has been successful at securing funding, the available monies are “soft.” When they are expended, law schools and TAJC may enter a new and difficult phase. New financial contribution expectations, on the part of either the commission or the law schools, during a period of fiscal unease, may strain collaborative relationships.

And while the academic content has been sound, the program has been too dependent on the personalities and efforts of the two founding faculty members. Without a strategic plan for transition, and the fostering of new leadership, program viability becomes tenuous.

D. *Recommendations*

Strong collaborations among law schools to increase access to justice are possible. They allow law schools to collectively reach

118. NARROWING THE GAP, *supra* note 4, at 4. “How well the challenge of linking these interests and needs is met is, in large part, determined by how clearly civic professionalism is understood.” *Id.*

further than any might reach singly while facilitating the ease with which support and services flow to the service providers. Law schools can never be expected to be major providers of services to low-income clients; however, the role law schools play has a special character.¹¹⁹ Law schools are well situated to provide skills competency training, student manpower through both client-centered activities and research projects, an awareness of the role of public interest service in civic profession and a appreciation of that burden, and research centers. The best collaborations are those that: (1) permit a degree of autonomy among schools, (2) have institutional memory and independent structure, (3) possess the flexibility to respond to changing provider needs with new projects and initiatives, (4) are designed with portability and transportability as constant objective criteria, (5) involve multiple stakeholders from each participating institution, (6) respect the academic tradition in which law schools are based, and (7) share the belief that increasing access to justice is a professional norm.

With these points in mind, it is clear that law schools must seize the opportunity and responsibility for increasing access to justice for underprivileged individuals. They must do so not only to enhance community justice but also to provide their students exposure to insightful, practical legal experience with real world application. Law schools' participation in providing increased access to justice is instrumental, and only with increased collaboration amongst law schools, bar associations, and foundations can there be a successful and far-reaching voluntary program that provides extensive legal aid and justice to underserved people and areas.

119. *Id.* at 54.

