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# Social Justice and Legal Writing Collaborations: Promoting Student Engagement and Faculty Fulfillment

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## Social Justice and Legal Writing Collaborations: Promoting Student Engagement and Faculty Fulfillment

*Kirsten Clement & Stephanie Roberts Hartung\**

### INTRODUCTION

Legal writing has played a critical role in an array of modern social justice movements. For example, in recent years, appellate and *amici* briefs have been instrumental in persuading the Supreme Court on landmark legal issues, including the death penalty<sup>1</sup> and marriage equality.<sup>2</sup> At the same time, the legal writing academy has begun to seize opportunities to improve student research and writing skills in the interest of the greater good. By developing social justice or public interest collaborations<sup>3</sup>—either in the traditional classroom context, or via other law school programs—legal writing faculty have increasingly provided students with valuable opportunities that enhance personal and professional growth.

Using live client issues as the basis for writing projects results in significant benefits for students, faculty, and, in some cases, larger communities whose legal needs are unmet. Specifically, a collaboration premised on a partnership with legal aid or other public interest organization can directly address the social justice gap. Strikingly, a recent study has shown that only about twenty percent of the civil legal needs of the poor are currently met.<sup>4</sup> In addition, about fifty percent of legal aid clients are turned away as a result of inadequate resources and funding.<sup>5</sup> Legal writing collaborations with these organizations can marshal student energy and enthusiasm to help narrow this gap.

Students who are faced with a live client issue often become motivated to devote additional time and effort to their writing, given the knowledge that real people and important causes will be directly impacted as a result of their efforts. Additionally, taking on social justice collaborations can be professionally fulfilling for legal writing faculty. For many, it is a way to reconnect with a prior career path or area of special interest and can provide fodder and motivation for new scholarship.

While also benefitting students, faculty, and legal communities, these social justice collaboration initiatives neatly align with modern calls for reform in legal education. Indeed, over the last several decades, the legal academy has begun to reexamine the law school curriculum, in

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<sup>1</sup> See *Roper v. Simmons*, 543 U.S. 551 (2005) (holding that it is unconstitutional to impose the death penalty for crimes committed while under the age of 18).

<sup>2</sup> A record of 148 *amici* briefs were filed in the landmark case of *Obergefell v. Hodges*, 135 S. Ct. 1039 (2015) (holding that the U.S. Constitution guarantees the right to same-sex marriage). See *Gay Marriage in the US Supreme Court*, 2015, <http://gaymarriage.procon.org/view.resource.php?resourceID=006193>.

<sup>3</sup> The terms “social justice” and “public interest” collaborations are used interchangeably throughout this Article, and are understood to broadly capture law school projects that focus on providing legal services to poor or underrepresented communities to ensure equal access to, and fairness under, the law.

<sup>4</sup> John E. Whitfield *The Impact of the Justice Gap on Litigants: Are We Providing a Level Playing Field?*, <http://www.brlls.org/Blog/Post/2/The-Impact-of-the-Justice-Gap-on-Litigants--Are-We-Providing-a-Level-Playing-Field->

<sup>5</sup> *Id.*

favor of an increased focus on experiential learning. For example, the *MacCrate* and *Carnegie Reports* have emphasized the importance of allowing students to hone their practical legal skills, while developing a professional identity.<sup>6</sup> The *Reports* identify weaknesses in the traditional law school curriculum, including an over reliance on the casebook method, and much needed efforts towards promoting a more balanced marriage of theory and practice in legal education.<sup>7</sup> Efforts to incorporate social justice components into the legal writing curriculum align with these recommendations and help produce practice-ready law graduates who have a more developed sense of their own professional role in the legal system.

This Article discusses the growing trend among legal writing faculty in the United States to incorporate social justice components into their teaching. Part I elaborates on the evolving role of legal writing in the law school curriculum, in the wake of recent calls for reform in legal education. Next, Part II presents the results of a 2014 survey undertaken by the Pro Bono Cooperation Committee of the Legal Writing Institute [“the 2014 Survey”],<sup>8</sup> specifically designed to measure the degree to which social justice collaborations are taking place. The 2014 Survey was a follow-up to a related survey conducted in 2006 [“the 2006 Survey”], focusing on Legal Research and Writing (“LRW”) collaborations with law school clinics, externships, and other pro bono programs.<sup>9</sup> Using the 2006 Survey as a point of comparison, this Article discusses how the results of the 2014 Survey indicate a marked increase in the number of social justice collaborations among legal writing faculty.

Finally, Part III discusses some examples of social justice projects undertaken at U.S. law schools, including partnerships with law school clinics and non-profit legal organizations in both first-year and upper-level writing courses. Outside of the classroom, these collaborations include pro bono writing bureaus and amicus projects. Finally, Part IV addresses the benefits and challenges inherent in these types of collaborations. Ultimately this Article serves as both a resource and an inspiration to legal writing faculty—novice and veteran alike—who endeavor to take on social justice collaboration projects at their own law schools.

## I. THE EVOLVING ROLE OF LEGAL WRITING IN THE LAW SCHOOL CURRICULUM

Over the last two decades, as legal writing faculty have begun to take on social justice

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<sup>6</sup> Section on Legal Educ. & Admissions to the Bar, American Bar Ass'n, *Legal Education and Professional Development--An Educational Continuum (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap)* (1992),

[http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2013\\_legal\\_education\\_and\\_professional\\_development\\_maccrate\\_report.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_maccrate_report.authcheckdam.pdf) [hereinafter *MacCrate Report*]; William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (2007),

[http://archive.carnegiefoundation.org/pdfs/elibrary/elibrary\\_pdf\\_632.pdf](http://archive.carnegiefoundation.org/pdfs/elibrary/elibrary_pdf_632.pdf) [hereinafter *Carnegie Report*].

<sup>7</sup> *Id.*

<sup>8</sup> The members of the Pro Bono Cooperation during the 2012-14 term, when the survey was undertaken, were: Co-chairs, Stephanie Roberts Hartung and Nantiya Ruan; other members, Dierdre Bowen, Kirsten Clement, Dana Hill, Allison Ortlieb, Anne Ralph, Sarah Ricks, Ellen Saidemen and Carrie Sperling.

<sup>9</sup> See Sarah E. Ricks & Susan C. Wawrose, *Survey of Cooperation Among Clinical, Pro Bono, Externship, and Legal Writing Faculty*, 4 J. OF COMM. & RHETORIC: J. OF ASS'N OF LEGAL WRITING DIRECTORS 56 (2007) (discussing results of 2006 LWI survey on LRW collaborations with law school clinics, externship and pro bono programs).

collaboration projects, recommendations for reform in legal education gained similar prominence. In particular, beginning in 1992 with a report published by the American Bar Association's ("ABA") Section of Legal Education and Admissions to the Bar titled "Legal Education and Professional Development—An Educational Continuum" ["MacCrate Report"], the legal academy placed more emphasis on teaching students professionalism and the importance of promoting "justice, fairness and morality" throughout the law school curriculum.<sup>10</sup> Subsequently, in 2007, additional recommendations regarding legal reform were proffered in the Carnegie Report on Educating Lawyers ("Carnegie Report").<sup>11</sup> This *Report* focused on the need to incorporate additional "new learning initiatives" into the law school curriculum to support the development of students' professional identities.<sup>12</sup>

Historically, American law schools have relied almost exclusively on the casebook method, first adopted by Harvard Law School under Dean Christopher Columbus Langdell in the late 19th Century. This method focuses on theory and the accessibility of legal thinking in the judicial context.<sup>13</sup> During the second half of the 20th Century, as law schools began to expand their curricula to include clinical offerings, some factions in the legal academy expressed concern that law schools were moving toward becoming "trade schools."<sup>14</sup> However, the *Carnegie* and *MacCrate Reports* have helped diffuse this fear that an emphasis on skills will diminish traditional, law school prestige. Instead, a new understanding has emerged that teaching students practical skills should be at the heart of legal education.<sup>15</sup> Thus, the legal academy has come to understand that exposure to legal practice while in law school provides students with a framework for newly acquired knowledge that will bridge the gap between their classroom learning experience and the practice of law.<sup>16</sup>

The *Carnegie Report* suggests that the legal academy as a whole should find ways to "combine the elements of professionalism—conceptual knowledge, skill, and moral discernment—into the capacity for judgment guided by a sense of professional responsibility."<sup>17</sup> Specifically, the *Report* recommends that the legal academy seek to integrate "formal knowledge" and "the experience of practice" as a means of producing practice-ready law graduates.<sup>18</sup> Further, the *Report* acknowledges that doctrinal knowledge "often comes more fully alive for students when the power of legal analysis is manifest in the experience of legal practice."<sup>19</sup> The *Carnegie*

<sup>10</sup> See MacCrate Report, *supra* note 6.

<sup>11</sup> See Carnegie Report, *supra* note 6.

<sup>12</sup> See Nantiya Ruan, *Experiential Learning in the First-Year Curriculum: The Public-Interest Partnership*, 8 Legal Comm. & Rhetoric: JALWD 191, 195-96 (2011) (discussing the MacCrate Report's "four 'fundamental values' that law schools must prepare students for in entering the legal profession," including "competent representation and professional self-development").

<sup>13</sup> Carnegie Report, *supra* note 6, at 11 ("At its best, law teaching in this mold makes accessible and intelligible to students the salient aspects of legal thinking in the judicial context.").

<sup>14</sup> *Id.* at 7 ("Thanks in part to the development of legal scholarship, the law schools of the leading universities no longer fear being dishonored as mere 'trade schools.'").

<sup>15</sup> *Id.* at 9 ("The mark of professional expertise is the ability to both act and think well in uncertain situations.... [S]tudents need access to forms of social interaction that embody the basic understanding, skill, and meaning that, together, make up the professional activity.").

<sup>16</sup> *Id.* at 8 ("Learning the law loses a key dimension when it fails to provide grounding in an understanding of legal practice from the inside.").

<sup>17</sup> *Id.* at 12.

<sup>18</sup> *Id.* ("The framework we propose seeks to mediate between the claims for legal theory and the needs of practice, in order to do justice to the importance of both while responding to the demands of professional responsibility.").

<sup>19</sup> *Id.* at 13-14.

*Report* also emphasizes the importance of encouraging *pro bono* work as a fundamental component of legal education.<sup>20</sup> Further, because *pro bono* legal services are characterized as “a vivid enactment of law’s professional identity,”<sup>21</sup> the Report praises the transformative role that these experiences can play in a student’s legal education.<sup>22</sup>

Moreover, the *MacCrate* and *Carnegie Reports* have resulted in further emphasis on both clinical and legal writing programs in the law school curriculum.<sup>23</sup> In fact, these recommendations for reform in legal education closely align with the kinds of teaching methods that legal writing faculty already engaged in, namely, teaching students analytical skills when applying principles of doctrinal knowledge.<sup>24</sup> Further, legal writing curricula are typically focused on developing fundamental lawyering skills, such as legal writing, research and analysis, through frequent formative assessment.<sup>25</sup>

In the years since the publication of the *MacCrate* and *Carnegie Reports*, legal writing faculty have increasingly discovered that incorporating a social justice component to law school curriculum is an ideal means of satisfying reform mandates. At the same time, these efforts motivate students to practice their mastery of new skills and to appreciate the importance of helping the underserved in their communities.<sup>26</sup>

## II. SURVEY DESCRIPTION

The Legal Writing Institute (“LWI”) Pro Bono Cooperation Committee (“Committee”) serves “to identify and implement ways to foster faculty engagement with social justice concerns.”<sup>27</sup> In furtherance of this purpose, the Committee has conducted various surveys over the last ten years to help measure the degree to which legal writing faculty are incorporating social justice components into their courses.

### A. Background: 2006 and 2007 Surveys

Initially in 2006, the Committee administered a survey of legal writing faculty to identify collaborations between legal writing, clinical, and pro-bono faculty members (also called “cross-program collaborations”). The results of this survey were summarized in an article reporting that

<sup>20</sup> *Id.* at 138-39 (likening “the legal services provided free *pro bono publico*” to the obligation within the medical profession to provide “charity” health care services).

<sup>21</sup> *Id.* at 138.

<sup>22</sup> *Id.* at 138-39 (noting that “a good pro bono experience can strongly influence a student’s future involvement in public service and even become a highlight of the law school experience”).

<sup>23</sup> See Kirsten A. Dauphinais, *Sea Change: The Seismic Shift in the Legal Profession and How Legal Writing Professors Will Keep Legal Education Afloat in its Wake*, 10 SEATTLE J. SOC. JUST. 49, 71 (2011) (noting that the Carnegie Report supports “connecting the three apprenticeships—the theoretical, the practical, and the ethical—through legal writing”).

<sup>24</sup> *Id.* at 103 (noting that legal writing pedagogy is “multi-modal” in that it focuses on mastery of legal analysis and communication).

<sup>25</sup> Beverly Petersen Jennison, *Save the LRW Professor: Using Rubrics in the Teaching of Legal Writing to Assist in Grading Writing Assignments by Section and Provide More Effective Assessment in Less Time*, 80 UMKC L. REV. 353, 358 (2011) (discussing the ubiquity of formative assessments in most writing programs at U.S. law schools).

<sup>26</sup> Ruan, *supra* note 12, at 202-03 (commenting that, without a social justice component, the “element of being responsible for forging a solution for a person or organization that is dependent on the student’s own legal skills is lacking and, ultimately, may engender apathy toward the problem. This lack of connection and realism can lead to students’ lack of motivation to do their best work for a problem they know was contrived by the professor and ultimately destined for the recycling bin.”).

<sup>27</sup> See Legal Writing Institute, [http://www.lwionline.org/committees\\_and\\_reports.html](http://www.lwionline.org/committees_and_reports.html)

cross-program collaborations were indeed taking place, and described over a dozen innovative examples.<sup>30</sup> Following the 2006 survey, the Committee administered the same survey again in 2007. The results of that survey were not reported in a formal article. However, the 2007 survey questions and results can be found online.<sup>31</sup>

### ***B. Purpose and Scope of the 2014 Survey***

In 2014, the Committee was charged with administering a survey similar to the one administered in 2006 and 2007. However, the 2014 Survey was designed with more expansive goals, focusing not just on cross-program collaborations, but also on whether and to what extent legal writing members were making efforts to integrate social justice concepts into the legal writing curriculum generally.

In that respect, the 2014 Survey served two purposes. First, the Survey served to identify the ways in which legal writing faculty integrate themes of social justice into the writing curriculum. Second, the Survey was meant to determine whether legal writing faculty have in fact engaged in cross-program collaborations in greater numbers than those reported previously.<sup>32</sup>

Responses to the 2014 Survey indicate a significant increase in the number of these efforts, including both cross-program collaborations and integrations of social justice into the legal writing classroom agenda.<sup>33</sup> Similar to the 2006 Survey, the goal was to create constructive dialogue within the legal writing community on the topic of social justice and legal writing collaborations, as well as to assess how often such collaborations do in fact occur. Lastly, another goal for the 2014 Survey was to produce a comprehensive resource for those interested in engaging in similar projects for the legal writing community.

### ***C. Summary: Survey Questions and Responses***

Specifically, the 2014 Survey consisted of eleven substantive questions (in addition to one requesting contact information on a voluntary basis), and resulted in seventy-eight total responders.<sup>34</sup> The first three questions sought basic background information, including details

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<sup>30</sup> Instructions on locating the 2006 survey itself can be found in the corresponding article.

<sup>31</sup> 2007 Survey by LWI Committee on Cooperation Among Clinical, Pro Bono, and Legal Writing Faculty, <http://lwionline.org/uploads/FileUpload/CollaborationSurveyResults2007.pdf>.

<sup>32</sup> LIW Pro Bono Cooperation Committee Survey, <http://lwionline.org/uploads/FileUpload/LWIPBCCSurvey2014Data.pdf>. While the questions of the 2014 survey were framed differently than the survey administered in 2006 and 2007, the committee did aim to collect some of the same information, while also collecting data on the specific theme of social justice. Many responses to the 2014 survey either repeated those reported in the prior surveys or reported on similar cross-program collaborations, which also had a social justice component.

<sup>33</sup> *Id.* The increased number of collaborations may be the result of a difference in the reporting rate. Nonetheless, the results of the 2014 survey are encouraging that more legal writing members are enthusiastically engaged in cross-program or social justice collaborations.

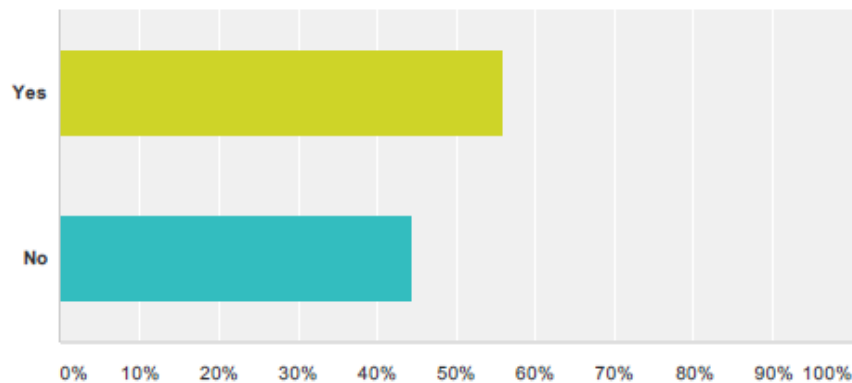
<sup>34</sup> *Id.*

about the types of courses taught by the responder,<sup>35</sup> total number of years teaching,<sup>36</sup> and information regarding prior work experience, if any, related to public interest or social justice.<sup>37</sup>

Following the basics, questions Four through Eleven asked for more specific information about whether members were engaged in attempts to integrate social justice into legal writing and, if so, to describe those efforts, along with any ideas not yet brought to fruition. For instance, question Four asked whether “[a responder] now or ha[s] . . . been involved in efforts to integrate social justice and legal writing at [his or her] law school?” Out of seventy-seven total responders,<sup>39</sup>

**Q4 Are you now or have you ever been involved in efforts to integrate social justice and legal writing at your law school?**

Answered: 77 Skipped: 2



about fifty-six percent positively reported engaging in such efforts, with forty-four percent answering in the negative.

Question Five asked specifically about the types of social justice integration or collaboration efforts responders have been involved in. Based on the 2006 and 2007 Surveys, and as a result of formal and informal discussions about social justice integration,<sup>40</sup> five broad

<sup>35</sup> In response to a question seeking the types of courses taught by responders, ninety-one percent reported teaching first-year legal writing; sixty percent also taught upper-level writing; eight percent taught clinics; and thirty-eight percent reported also having taught doctrinal courses.

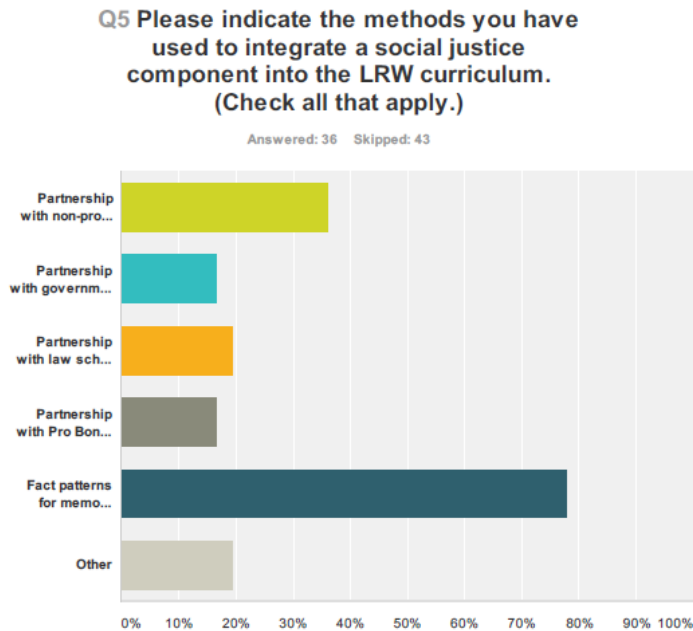
<sup>36</sup> Results reflected that fifty percent had taught for more than ten years; thirty-one percent had taught for five to ten years; and nineteen percent spent time teaching for less than five years.

<sup>37</sup> The survey indicated that about fifty-three percent of responders practiced in a public interest or social justice field prior to becoming law professors, with many reporting *pro bono* involvement related to practice. Some examples of the responses to this question (Three) include the following: employment with a public defender or state attorney office, legal aid or legal services, or guardian ad litem; immigration practice; representation of inmates; advisory position with the department of justice; handling *pro bono* cases; discrimination law; and representation of low-income clients.

<sup>39</sup> *Id.* While 78 members had responded to the first few questions, only 77 responded to question 4.

<sup>40</sup> *Id.* For example, decisions about how to frame the survey questions were informed in part by informal conversations among members of the LWI Pro Bono Cooperation Committee, LWI listserv email exchanges, and information stemming from a one-day workshop dedicated specifically to sharing and learning about efforts to integrate social justice into the legal writing curriculum. This one-day workshop was held in 2014, the day prior to the start of the LWI conference in Philadelphia, Pennsylvania.

categories were included in the answer choices, including an “other” category. These categories, and the responses for each, were as follows: (1) partnership with non-profit legal organization (thirty-six percent); (2) partnership with government agency (seventeen percent); (3) partnership with law school clinic (nineteen percent); (4) partnership with pro-bono program (seventeen percent);<sup>41</sup> and (5) fact patterns for memo assignments using social justice topics (seventy-eight percent). Lastly, the response rate for the “other” category was approximately twenty percent. This suggests that, while the categories were broadly drafted to encompass many different projects, other efforts aimed at social justice issues do in fact exist, although were not captured by the current



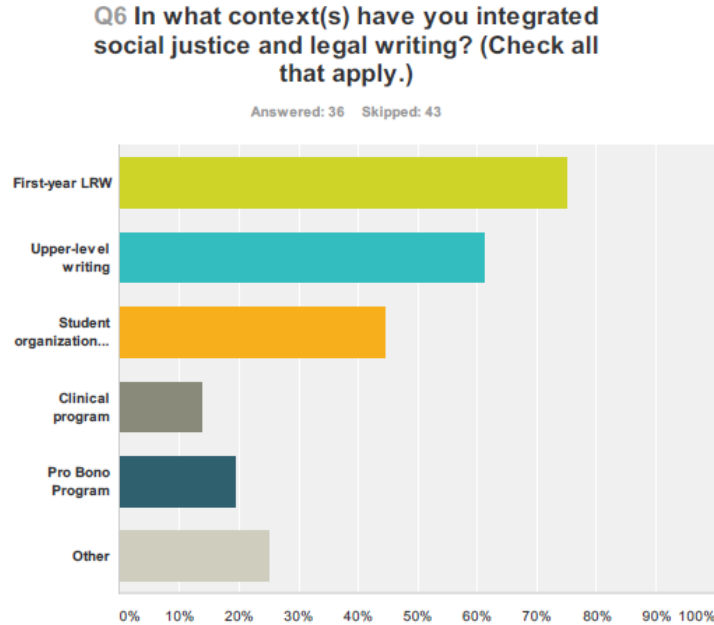
categories. Additionally, it suggests there is a need for further discussion about current and future projects.

Question Six asked survey responders to briefly identify and explain, if necessary, the context(s) under which they had integrated social justice with legal writing. Per survey results, thirty-six responders reported engaging in social justice/legal writing integration in the following contexts: (1) first-year legal writing course (seventy-five percent); (2) upper-level writing course (sixty-one percent); (3) student organization or project (forty-four percent); (4) clinical program (fourteen percent); (5) pro bono program (nineteen percent); and (6) “other” (twenty-five percent). Many “other” courses were doctrinal courses and externships.

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<sup>41</sup> *Id.*





From here, questions Seven and Eight asked for the law school(s) where a responder's efforts took place and whether such efforts presented particular challenges and benefits. The survey results indicated that social justice collaborations occurred at a total of law schools.<sup>42</sup> The challenges and benefits will be discussed in detail in Section V, below.

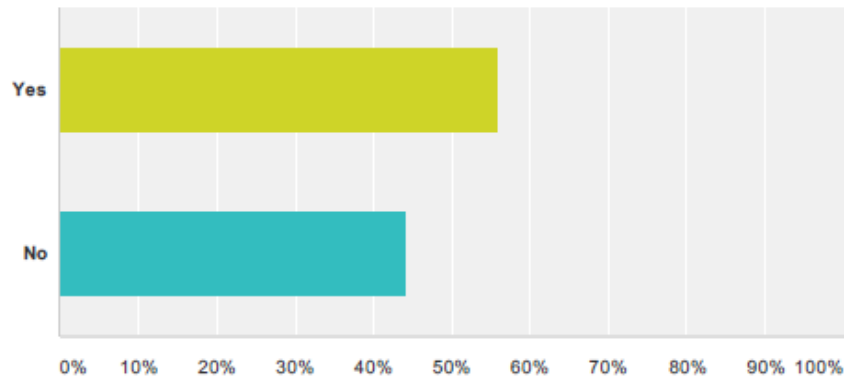
<sup>42</sup> *Id.* The legal writing members who have engaged in integration efforts have done so at the following law schools, with some responders engaging in such efforts at multiple: Arizona Summit School of Law; Barry University School of Law; California Western School of Law; Chapman University School of Law; Drake University Law School; Drexel University Thomas R. Kline School of Law; Florida Coastal School of Law; Georgetown University Law Center; Golden Gate University School of Law; Liberty University School of Law; Loyola Law School, Los Angeles; New York Law School; Mercer University School of Law; Michigan State University School of Law; Rutgers School of Law-Camden; Savannah Law School; Seattle University School of Law; Stanford Law School; Stetson University College of Law; Suffolk University Law School; The University at Buffalo School of Law; Temple University Beasley School of Law; The Ohio State University Moritz College of Law; University of Cincinnati College of Law; University of Detroit Mercy School of Law; University of Illinois College of Law; University of Kentucky College of Law; University of La Verne College of Law; University of Louisville Louis D. Brandeis School of Law; University of Maine School of Law; University of Massachusetts School of Law; The University of Mississippi School of Law; University of Nevada Las Vegas William S. Boyd School of Law; University of Oregon School of Law; University of Pennsylvania Law School; The University of St. Thomas School of Law; The University of Texas at Austin School of Law; University of Wisconsin Law School; Vermont Law School; Villanova School of Law; Western New England University School of Law; Widener University Delaware Law School. In addition, one responder engaged in a social justice integration effort in a paralegal program.

Additionally, question Nine asked whether any efforts or projects described by the responders involved direct contact with an outside social justice organization, agency, or program. Results showed that while 56% reported having some contact with an outside agency, 44% of responders had no such contact.

Question Ten inquired about potential resources utilized and explored by respondents in order to carry out such efforts. The responses were as follows: (1) informal conversations with LWI members (62%); (2) conference presentations (55%); (3) scholarship review (69%); and (4)

**Q9 Do/does the course(s) or project(s) described above involve any direct student contact with an outside social justice organization, agency, or program?**

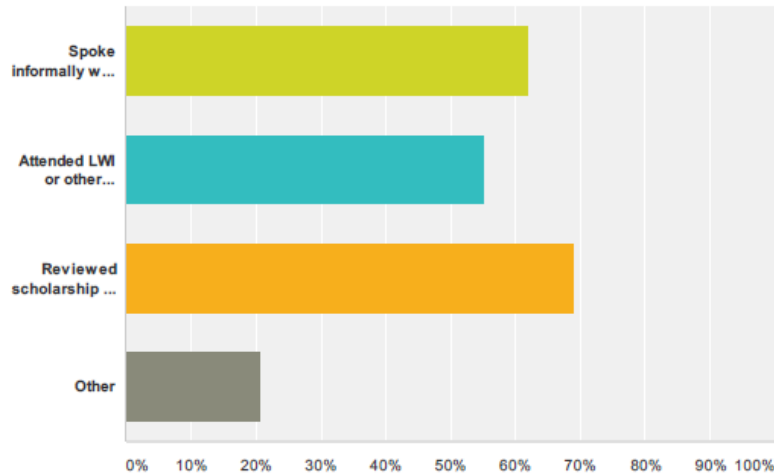
Answered: 34 Skipped: 45



“other” (21%). Specifically, several significant resources identified in the “other” category included conversations with practitioners and students, and a general commitment to remain current on social justice issues, which “change with time.”

**Q10 In developing and preparing for the course(s) or project(s) described above, did you consult any of the following resources? (Please check all that apply).**

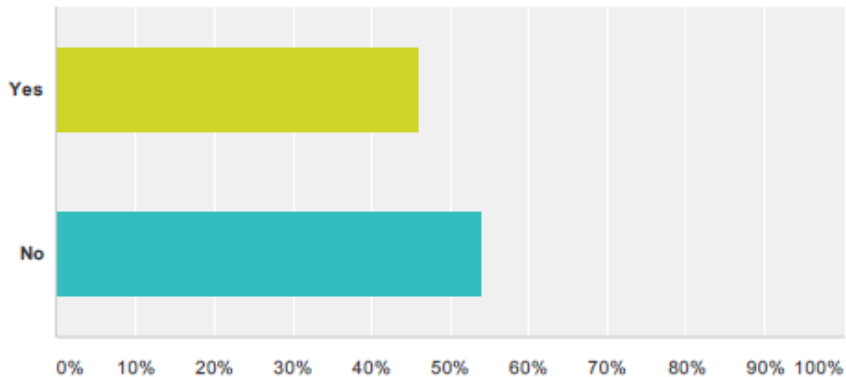
Answered: 29 Skipped: 50



Finally, question Eleven asked a responder about potential ideas for incorporating social justice themes in future legal writing curriculum. In response to this question, 46% percent replied positively to having such ideas, and 54% indicated in the negative. One of the most common responses for an idea not yet implemented was to collaborate with a law school clinic.

**Q11 Do you have ideas, which you have not yet tried, for incorporating social justice themes in the legal writing curriculum?**

Answered: 63 Skipped: 16



### III. MODELS OF LEGAL WRITING/SOCIAL JUSTICE COLLABORATIONS

The 2014 Survey results reveal that the social justice collaborations undertaken by legal writing faculty have significantly increased since the 2006 Survey, and have taken on various forms. These efforts have occurred both inside and outside of the classroom, as part of the first-year and upper-level curriculum, and have also involved partnerships with government agencies, non-profit legal organizations, and law school clinics. At the heart of each of these projects is an effort to use social justice causes as an inspiration for students seeking to improve their legal research, writing, and analytical skills. Below is a discussion of a few select examples of such collaboration in first-year and upper-level writing courses, along with efforts outside of a classroom setting.

#### *A. First-year Course Collaborations*

Specifically, the results of the 2014 Survey indicate that legal writing faculty at a number of U.S. law schools have adopted social justice collaborations in their first-year required legal writing courses. This model has the benefit of reaching first-year law students at a critical point in the learning and development of their fundamental research, writing, and analytical skills. While the survey results indicate that several first-year course models exist in legal writing programs around the country, below is a brief description of two first-year social justice course collaboration models.

##### *1. University of Denver Sturm College of Law—the Public Interest Partnership Model*

Professor Nantiya Ruan has developed a “public interest partnership” model in the first-year curriculum at University of Denver Sturm College of Law.<sup>43</sup> This model is premised on an understanding of the importance of fully integrating the three pillars of legal education—doctrine, skills, and professional identity—into the first-year curriculum.<sup>44</sup> In this model, “law students in the first-year legal writing course partner with a preselected nonprofit organization to provide legal research and written advocacy in furthering the organization’s impact-litigation or policy agenda.”<sup>45</sup> This public interest partnership model provides students with a “learning experience that encourages them to think like lawyers in a real-world setting, with a realistic, client-centered problem.”<sup>46</sup> To facilitate this model, Professor Ruan developed a “legal problem with fictitious case facts that closely mirrored the type of litigation the potential [non-profit organization] wished to investigate.”<sup>47</sup> Accordingly, a student’s written and oral assignments for the year were based on this fact pattern, as the “ultimate recipient of their work” was the non-profit organization.<sup>48</sup>

Professor Ruan acknowledges that live-client models are beneficial to students in legal writing courses as well, but argues that the more controlled public interest partnership model is

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<sup>43</sup> Ruan at 204-08 (providing a complete discussion of the model).

<sup>44</sup> *Id.* at 192 (noting the emphasis on integrating doctrine and practice in recent scholarship, and arguing in favor of further emphasis on the development of professional identity as a goal of legal education).

<sup>45</sup> *Id.* at 193.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

uniquely suited for first-year law students who have limited experience with, and understanding of, complex legal issues.<sup>49</sup> Over the years, Professor Ruan has partnered with national legal organizations such as the National Employment Law Project and the National Advocates for Pregnant Women, along with local legal non-profits, such as Project Safeguard, a Denver organization that advocates on behalf of battered women.<sup>50</sup> Professor Ruan then works to create a fact pattern involving a legal issue that is both “accessible and understandable” to first-year law students, as well as one that incorporates an aspect of “furthering the public good.”<sup>51</sup>

Some of the benefits of the public interest partnership model include the opportunity for first-year students to participate in social justice work without complications inherent in a live-client model. Thus, students experience the motivational power of working on an important cause, while knowing that their final written product will serve a greater purpose than merely practicing their writing skills.<sup>52</sup> Finally, under this model, students begin to develop their own professional identity in the legal realm.<sup>53</sup>

## 2. *Seattle University School of Law—the Clinical Collaboration Model*

Several faculty members at Seattle University School of Law have developed a social justice collaboration in the first-year legal writing curriculum that focuses on a partnership with law school clinics.<sup>54</sup> Similar to Professor Ruan’s public interest partnership model, the Seattle model—deemed the “integrated skills project”—has the benefit of involving students in their first year, at a critical stage when they are learning and developing their legal research, writing and analysis skills.<sup>55</sup> The clinical collaborations at Seattle have taken on a number of forms, including legal writing and clinical faculty co-teaching classes, and guest speaking in clinical and legal writing classrooms.<sup>56</sup> Under the integrated skills project model, students have been assigned to research and writing projects on issues relating to asylum applications for the Immigration Clinic and protection orders for the Domestic Violence Clinic.<sup>57</sup> The full partnership model in the context of a clinical collaboration thus contemplates integration of the clinical and legal writing faculty as a single “skills faculty.”<sup>58</sup>

Similar to Professor Ruan’s public interest partnership model, the Seattle model benefits the participating students in a variety of ways. First, students who participate display increased “motivation, engagement, and satisfaction.”<sup>59</sup> Second, participating students also learn to “integrate and apply skills” to “real world” experiences while improving their collaborative

<sup>49</sup> *Id.* at 204 (arguing that existing live-client models are “imperfect for introducing and developing students’ professional identity in the first year”).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 209.

<sup>53</sup> *Id.* at 210.

<sup>54</sup> For a more complete discussion of this model, see Sara K. Rankin, Lisa Brodoff, & Mary Nicol Bowman, *We Have a Dream: Integrating Skills Courses and Public Interest Work in the First Year of Law School (And Beyond)*, 17 CHAP. L. REV. 89 (2014).

<sup>55</sup> *Id.* at 90 (“We have found that these projects provide our first-year students with exceptional training in practical skills, generate remarkable student satisfaction, and reignite student passion for the practice of law.”).

<sup>56</sup> *Id.* at 91 – 93.

<sup>57</sup> *Id.* at 93.

<sup>58</sup> *Id.* at 94 (“Clinical and legal writing faculty become ‘skills faculty.’ Such faculty work as a single department to address legal skills education throughout all three years of legal education, at the appropriate level for each student.”).

<sup>59</sup> *Id.*

skills.<sup>60</sup> Third, students are presented with increased opportunities to “reflect on moral and ethical aspects of lawyering.”<sup>61</sup> Finally, because these clinical collaborations also positively impact the institutions where such programs occur, they can be said to create dual benefits. As noted by Professors Rankin, Brodoff, and Bowman, these clinical collaborations have a positive impact at the institutional level, including creating collaborative opportunities for faculty in different departments and increased faculty productivity.<sup>62</sup>

### ***B. Upper-level Seminar Course Collaborations***

The 2014 Survey results further indicate that some legal writing faculty have developed social justice collaborations in upper-level seminar courses as well. This model can be based on a partnership with a law school clinic, a government agency, or legal non-profit organization. One benefit of this upper-level model is that second and third-year law students are better equipped to address the more complex legal and factual issues typically present in a live client fact pattern. While there are several such models in many U.S. law schools, one model is discussed as an example below.

#### *Suffolk University Law School – Advanced Legal Writing: Innocence Project Seminar*

Professor Stephanie Roberts Hartung has developed an upper-level social justice collaboration course at Suffolk University Law School in Boston. The collaboration course is based on a partnership with the New England Innocence Project [“NEIP”], which is a local legal non-profit, also based in Boston.<sup>63</sup> In contrast to the traditional wrongful conviction clinical model, this course is premised on a more limited partnership with NEIP. Specifically, students review a single NEIP case involving a prisoner’s post-conviction claim of factual innocence. The student work typically culminates with researching and writing a memorandum in support of post-conviction relief, such as a motion for new trial, petition for post-conviction relief, or federal habeas corpus petition.<sup>64</sup>

Professor Hartung asserts that this course benefits students in a variety of ways. In addition to gaining knowledge of substantive law and procedure on wrongful convictions, students also develop essential lawyering skills required for a comprehensive case review, including “critical reading, organization, professionalism, time management, collaboration, and oral presentation skills.”<sup>65</sup> Finally, at a fundamental level, students are generally more motivated to practice and improve their legal research and writing skills when they know their work will directly benefit the client—and the greater good.<sup>66</sup> Furthermore, Professor Hartung observes that wrongful conviction work is particularly suitable for legal writing collaborations because the mission of the Innocence

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 95.

<sup>62</sup> *Id.* at 96.

<sup>63</sup> For a more complete discussion of this model, see Stephanie Roberts Hartung, *Legal Education in the Age of Innocence: Integrating Wrongful Conviction Advocacy into the Legal Writing Curriculum*, 22 B.U. PUB. INT. L.J. 129 (2014).

<sup>64</sup> *Id.* at 154; *Id.* at 160 (“Students more meaningfully learn and improve their analytical skills in [the context of this course] because they know that their efforts are for a good cause.”).

<sup>65</sup> *Id.* at 154.

<sup>66</sup> *Id.* at 160 (“Students more meaningfully learn and improve their analytical skills in [the context of this course] because they know that their efforts are for a good cause.”).

Project, along with a national network of comparable innocence organizations, holds a broad appeal and is largely apolitical.<sup>67</sup> For example, few would quibble the notion that freeing an innocent person from prison is a worthwhile cause. Most importantly, the “interests of justice”<sup>68</sup> rationale that is typically central to the court’s analysis in post-conviction innocence claims provides students with opportunities to develop creative and compelling arguments supported by reasoning based on justice and fairness.<sup>69</sup>

### *C. Social Justice Collaboration Projects Outside the Classroom*

The 2014 Survey indicates that some legal writing faculty have developed social justice collaborations outside the traditional classroom model as well. For instance, Florida Coastal School of Law developed a student organization called the Public Interest Research Bureau (“the Bureau”).<sup>70</sup> The Bureau is a student-directed organization with close oversight by faculty members who volunteer their time for the education of students with a passion for social justice. Under this model, licensed attorneys submit real-life research problems to the Bureau to have upper-level students complete research and draft documents. The organization has a tiered structure: faculty member oversight; student board members; and research and writing associates. In addition, law review students conduct detailed edits of each document prior to finalization and submission to the requesting attorney. Legal aid attorneys submit research requests through the school’s website, and the students generally return a written work product—typically a full memo, but sometimes an email or summary memo—within twenty-eight days or less. As such, students have the opportunity to speak directly with the attorney who submitted the request to seek additional information as needed, and to provide important updates on the process.

According to Professor Kirsten Clement, who helps oversee the Bureau, the organization provides invaluable education to students who may not otherwise have exposure to live cases and current issues impacting those of limited resources. Not only have students provided positive feedback about their experiences, but legal aid attorneys have also found the organization’s free legal research services extremely helpful and on-point for their needs. Therefore, Florida Coastal students’ work plays an important role in the increasing need to close the justice gap for those unable to afford legal services.

## **IV. THE CHALLENGES AND BENEFITS OF INCORPORATING SOCIAL JUSTICE COMPONENTS INTO LEGAL THE WRITING CURRICULUM**

As with any new project or classroom idea, there are both challenges and benefits. The prevailing view among the 2014 Survey responders is that the benefits significantly outweigh the challenges. The discussion below will highlight the primary obstacles and rewards of these collaborations, and will ideally provide guidance for legal writing faculty who are currently

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<sup>67</sup> See Innocence Project, at <http://www.innocenceproject.org> (last visited February 15, 2016) (discussing the dual mission of the Innocence Project: to exonerate wrongly convicted, factually-innocent prisoners using DNA testing and to reform the criminal justice system to prevent future wrongful convictions).

<sup>68</sup> *Id.* at 159 (“Many of the newly discovered evidence and post-conviction relief statutes cite the ‘interests of justice’ as their purpose.”).

<sup>69</sup> *Id.* at 158 (“Specifically, the students must demonstrate in their arguments how the facts of the case support post-conviction relief in order to promote the interests of justice.”).

<sup>70</sup> The Research Bureau is modeled after a similar organization at The Ohio State University Moritz College of Law, The Pro Bono Research Group.

engaged in social justice collaborations, along with those who are considering taking on such a project but have not yet done so.

## *A. Challenges*

### *1. Time Commitment*

According to the 2014 Survey responses, the greatest challenge facing legal writing faculty wishing to develop social justice collaborations is finding the time. Given that legal writing faculty increasingly face demanding course loads, committee obligations, scholarship requirements, and other service commitments, undertaking a new project can be daunting. As one survey responder aptly stated, the biggest obstacle involved in engaging in such a project is the “perennial challenge” of “time.” Another responder wrote, “the challenges are simply those of time!” Time commitment concerns are compounded when a writing professor attempts to use a live client issue or active case as a basis for a writing assignment. One responder addressed this issue related to workload: “It is extremely time-consuming to prepare for a course with a live-client component as the record is lengthy and each year requires learning new facts and new law.” The same is true when undertaking a new project in addition to contractual requirements of the job. Another responder specifically mentioned that it is indeed challenging “teaching [an] additional course while keeping up with [his/her] legal writing courses.”

While time commitment concerns are arguably most prevalent in a full-blown social justice or cross-program collaboration, they are seemingly less prevalent in the context of smaller-scale projects, such as developing a fact pattern with a social justice theme. Most survey responders indicated that they have made efforts to develop a fact pattern with a social justice component; that may be because it requires less time and creates fewer logistical issues than some other reported projects. For instance, one responder reported the integration consisted of using examples and cases from practice. The responder found this approach “easy and successful because [the examples] came from [his/her] background.”

In addition to those who have engaged in projects naming “time” as a challenge, other responders referred to the time commitment as an impediment to ever undertaking a social justice project. For example, one responder indicated a desire to create an upper-level course about writing for social change, but has not “yet figured out how to make the time to do this.” Another responder indicated a desire to “do more with community groups,” but was unable to do so “given the tight 1L schedule.” In addition, in response to Question Eleven, asking about ideas not yet tried, many responders had some great ideas, but had not yet created them.

### *2. Lack of Control*

Survey responders indicated that another significant challenge inherent in social justice collaborations is the lack of control over the curriculum and writing assignments. For instance, when relying upon an outside organization or when basing a writing problem on an active case, control over the volume of the work, the nature and scope of cases and legal issues, and the details of a writing problem are often out of the professor’s hands. Some responses related to this challenge are the following: recognition of a “lack of control that comes with using live issues to teach”; “reaching consensus decisions, chains of command, and a certain territorial tension; “lack of control over the scope and details of the problem”; “making sure students have enough projects from the legal services provider.” One responder succinctly captured the challenge of control: “The biggest challenge was being flexible because aspects of the hypothetical were out of my control.”



As many responders noted, using an active case or part of an active case requires much more time to plan, and requires some flexibility on the part of the professor and the students. Many students, especially 1Ls, have a difficult time with unpredictable and potentially changing issues and facts, and excessive complexity in a writing problem may detract from the goals of a particular assignment, especially early assignments in a writing course.

### 3. *Other: Confidentiality, Ethics, Support*

Legal writing faculty who engage in collaborations with others within the law school, such as clinicians or doctrinal faculty, also reported facing other unique challenges, in addition to the challenges of time commitment and control. Some of these collaborations may relate to navigating school politics or infringing on others' territories or areas of expertise. For example, one responder observed that "doctrinal colleagues are slow to accept LWR profs' capability to teach doctrine." Obviously, for such collaborations to be successful, they must be based on mutual and clear objectives, detailed and collaborative planning, and, above all, respect.

Survey responders also recognized other challenges including addressing ethical and confidentiality issues that may arise when working on live client cases or working with outside organizations or entities. One responder specifically mentioned the challenge of providing the student with enough information from a live client file "while maintaining confidentiality." Another responder noted that a significant challenge is finding administrative support: "If the topic isn't a priority . . . of the law school admin[istration], there's not much support for the effort."

### 4. *Benefits*

While the challenges of integrating a social justice component into the legal writing curriculum are important to recognize, the clear message from those who responded to the survey is that the benefits outweigh those challenges. Below is a discussion of the benefits most commonly reported.

#### a. *Improvement in Student Motivation and Engagement*

Survey responders commonly reported that incorporating social justice into the legal writing classroom or curriculum, even on a small scale, helps spark student interest and motivation. Students naturally will care more about a problem if they feel they have some impact on the eventual outcome and know a real client is or may be involved. Some responders commented: "Students generally take an interest in such [assignments]," and are "motivated to do their best work." When using a writing assignment based on a real case, students become engaged "on a much deeper level than when teaching 'canned' problems," and thus, they are more creative.

One responder specifically noted the "buy-in" concept: if students are assigned a "real" problem, they tend to "care about the issue on a deep level," and it may "spark a passion in them." Another responder noted that using social justice issues in writing problems encourages students to "care enough about their writing to pay attention to details and to try all that much harder at improving their writing." Stated another way, a social justice-based writing assignment "energizes students to put in the effort to do top-notch work."

*b. Support of Current Trends in Legal Education Reform: Developing Practice-Ready Students*

Incorporating social justice concepts into a skills-based class also directly aligns with recent reforms in legal education, and positions legal writing faculty to have a critical impact on student learning and development. Not only are students more motivated on assignments with a social justice component, but they also receive an invaluable opportunity to develop their lawyering skills and professional identities. One responder specifically noted the supreme importance of incorporating social justice themes for purposes other than simple “exposure,” which may “encourage students to persist in all kinds of inaccurate assumptions about how the world works.” Rather, including social justice examples in a thoughtful and deliberate manner supports more “real world, and better, teaching.”

In addition, and in direct response to the current trend in legal education, incorporating social justice issues into the class supports experiential learning through the lens of legal writing. Doubtless every legal writing professor has heard from students that they did not fully appreciate what was covered in their legal writing course until their first internship, job placement, or clinical experience. Incorporating social justice issues or themes into the legal writing classroom helps students understand the importance of what they are learning in context, which has a greater impact on learning and retention. Students can more easily learn and appreciate what it means to practice law within the constraints that many practitioners experience—contradictory client stories; incomplete factual information; time and resource limitations; ethical considerations; and many more. Additionally, students are introduced to the idea of giving a voice to the underserved in the legal context. Integrating social justice and legal writing may instill in law students a lasting dedication to and passion for public interest work. One responder, in fact, found this to be true: “[F]ormer students have written to tell me how worthwhile they have found the *pro bono* work they’ve taken on now that they are in private practice.”

*c. Job Satisfaction for Professors*

The benefits of social justice collaborations flow primarily to student learning and engagement, but many professors experience personal and professional benefits as well. When students care and take a more active role in their learning, the professor’s job is undoubtedly more pleasant and rewarding. Legal writing professors have an opportunity to expand their professional identities and explore areas perhaps not available traditionally within the parameters of their teaching obligations. One responder noted a benefit of “feeling more energized in [his/her] own teaching from these projects.” In addition, these types of projects support important opportunities for “making connections with other faculty . . . [and] community partners, [and] learning new areas of the law.”

## CONCLUSION

The results of the 2014 Survey demonstrate a growing trend toward incorporating public interest and social justice components into the legal writing curriculum. In the years since the 2006 and 2007 surveys were conducted, these efforts have significantly increased in number and in scope. While undoubtedly presenting challenges to legal writing faculty who endeavor to undertake such projects, these challenges are substantially outweighed by the benefits to both

students and faculty. Overall, the array of innovative social justice projects shared by the survey responders and discussed here provide an effective means of motivating students to improve their legal research and writing skills and develop a professional identity, while providing professional fulfillment and development for the faculty members who undertake them.