

HOW TO BUILD A PUBLIC INTEREST LAWYER (AND HELP ALL LAW STUDENTS ALONG THE WAY)

By Aliza B. Kaplan*

I. Introduction

We hear a great deal about the ineffectiveness of law school education and the lack of preparation for practice provided to law school students.¹ But this is nothing new to public interest lawyers. In fact, students entering law school with plans for careers in public interest law regularly express dissatisfaction with their law school experience.² The “signature pedagogy” of

* Associate Professor, Lewis & Clark Law School. JD Northeastern University School of Law, BA The George Washington University. I would like to thank Professor Cynthia Godsoe of Brooklyn Law School, Lewis & Clark Law School students Rachael Federico (13) and Diana Winther (14), and all the students from my Public Interest Lawyering classes for their help with and motivation for this article. Finally, thank you G for your light, my parents for your encouragement, and S, E, and M for your love.

1. Neil J. Dilloff, *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact on Legal Education*, 70 MD. L. REV. 341, 359 (2011) (“No longer is it sufficient for law schools to impart basic substantive law, train students to think like lawyers, and prepare them to pass the bar examination. More intensive real world experience is essential and may include apprenticeships with practicing lawyers, clinical experiences with actual clients, and more crossdisciplinary and multidisciplinary courses.”); Bryan A. Garner, *Three Years, Better Spent*, N.Y. TIMES (July 25, 2011, 11:42 AM), <http://www.nytimes.com/roomfordebate/2011/07/21/the-case-against-law-school/three-years-in-law-school-spent-better>; Deborah L. Rhode, *Legal Education: Rethinking the Problem, Reimagining the Reforms*, 40 PEPP. L. REV. 437, 449 (2013) (“According to one survey, close to two-thirds of students and 90% of lawyers feel that law school does not teach the practical skills necessary to succeed in today's economy.”) (citing LEXIS-NEXIS, STATE OF THE LEGAL INDUSTRY SURVEY 7 (2009)); David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. TIMES (Nov. 19, 2011), <http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?pagewanted=all>.

2. See Richard L. Abel, *Choosing, Nurturing, Training and Placing Public Interest Law Students*, 70 FORDHAM L. REV. 1563, 1566 (2002) (“Although many students are attracted to law by a desire to serve their own conceptions of the public interest, few ultimately do so. . . . One [reason] may be public interest-minded students' increasing sense of isolation and alienation. . . . [P]ublic interest students eventually find each other, but their reluctance to speak in class (for fear of ridicule by fellow students and teachers), the division of the first-year class into sections (with little interaction among them), the overwhelming demands and anxieties of the first year (which discourage volunteer activity), and the lack of contact with upper-class students all obstruct solidarity.”); Lynn A. Addington & Jessica L. Waters,

learning case analysis through the Socratic or case method,³ often in the context of business and traditional litigation, is the teaching method most widely used by law schools in the United States.⁴ Yet, it has been criticized for its perceived disconnect from issues of justice, its absence of feeling and moral considerations, and its lack of critical analysis of social policies.⁵

Public Interest 101: Using the Law School Curriculum to Quell Public Interest Drift and Expand Students' Public Interest Commitment, 21 AM. U. J. GENDER SOC. POL'Y & L. 79, 81-2 (2012) (“[L]aw students participating in the traditional law school curriculum experience disengagement ‘from the ideals that originally motivated them to pursue public interest work’ in part because law school teaches students to ‘value the hierarchy of a law firm over a public interest career.’”) (quoting Jenee Desmond-Harris, “*Public Interest Drift*” Revisited: Tracing the Sources of Social Change Commitment Among Black Harvard Law Students, 4 HASTINGS RACE & POVERTY L.J. 335, 346 (2007); William P. Quigley, *Letter to a Law Student Interested in Social Justice*, 1 DEPAUL J. SOC. JUST. 7, 13 (2007) (“There is far too little about justice in law school curriculum or in the legal profession. You will have to learn most of this on your own.”).

3. WILLIAM M. SULLIVAN ET AL., SUMMARY: EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 4 (2007) [hereinafter CARNEGIE REPORT SUMMARY], available at http://www.carnegiefoundation.org/sites/default/files/publications/elibrary_pdf_632.pdf. See also Doni Gewirtzman, *Reflections on Substance and Form in the Civil Rights Classroom*, 54 ST. LOUIS U. L.J. 783, 785-86, 789 (2010) (“As the Carnegie Report describes it, the [Socratic] case dialogue is a teacher-centered exercise, where the professor ‘is clearly the focal point’ and where ‘it is relatively rare . . . for students to address one another directly.’”) (quoting WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 49-50 (2007)) (“The case-based nature of the classroom inquiry, which calls upon students to exclude so much of human experience as irrelevant in the search for “material facts,” depersonalizes the rich and diverse nature of human experience into a set of archetypal case narratives for public consumption.”).

4. “Despite the passage of over 130 years, Langdell’s methods remain the dominant teaching modality.” Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, The Public and The Legal Profession*, 44 CAL. W. L. REV. 219, 222 (relying on Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1 (1996) (concluding that the data from a 1994-1995 survey of law professors indicates that the Socratic method is entrenched and dominates legal education)).

5. The Carnegie study critiques the fact that the pedagogical methods of law school courses most often leave “[i]ssues such as the social needs or matters of justice” as well as “moral concerns” on the peripheries of discussion, if they are included in discussion at all. CARNEGIE REPORT SUMMARY, *supra* note 3, at 6. See also Peter L. Davis, *Why Not a Justice School? On the Role of Justice in Legal Education and The Construction of a Pedagogy of Justice*, 30 HAMLINE L. REV. 513, 519 (2007) (“Indeed, law school has made almost a fetish of discouraging exploration of morality, fairness, and justice. Emotional responses of virtually all kinds are discouraged. Currently, our emphasis on process in our teaching constitutes a form of reductionism. This reductionism sorts out such values as fairness and justice, which are rejected as ‘soft’ and ‘fuzzy,’ unbecoming law school classroom discussion.”);

Unfortunately, the shortcomings of the Socratic method are not the only problems plaguing public interest law students at school. Public interest law students often find themselves at the bottom of their institution's hierarchy with regard to resources, programs, job search assistance, and relevant course work.⁶ Along with most law students, public interest students have requested more clinical and externship opportunities as a way to acquire hands-on legal experience involving "real" research and writing projects, interaction with different types of clients, and court experience. However, unlike those law students who will work at law firms or in many branches of the government, public interest graduates regularly take positions where they not only need to be practice ready in the traditional sense, but they need to be prepared to wear many different hats. Almost overnight, public interest graduates need to become fundraisers, media experts, community organizers, educators, and counselors. As a result, these new attorneys often wish that their law schools had offered courses in fundraising, so they would be prepared to make presentations, write grant proposals (often to keep their jobs), raise money for a client, or start their own organization or project. They would have benefited from courses on media relations to help them better advance their causes, educate the public, and promote constructive public relations messages. And they could have used courses on communicating and strategizing with clients, who are mostly poor and disenfranchised. These types of courses would help prepare students to be more effective advocates.

Another deficit worth noting is the lack of opportunity to study the rich history of public interest lawyering, including the often courageous stories of attorneys who have fought for social

Robert D. Dinerstein, *Limitations to the Method*, N.Y. TIMES (December 15, 2011), <http://www.nytimes.com/roomfordebate/2011/12/15/rethinking-how-the-law-is-taught/there-are-limitations-to-the-socratic-method> ("But the limitations of the method as usually employed — its over-reliance on excerpts of appellate cases, the tendency of many of its purveyors to give short shrift to issues of fairness and justice, its fostering of passivity on the part of those students not involved in the dialogue, and its privileging of the professor as the sage on the stage — are serious impediments.").

6. William P. Quigley, *Letter to a Law Student Interested in Social Justice*, 1 DEPAUL J. SOC. JUST. 7 (2007); See also Louis S. Rulli, *Too Long Neglected: Expanding Curricular Support for Public Interest Lawyering*, 55 CLEV. ST. L. REV. 547, 548-49 (2007) ("[L]aw schools sometimes convey a message to students that public interest work is less prestigious or academically rigorous than . . . law firm employment.").

justice issues over the years, and the theories and strategies behind diverse public interest movements. Students also rarely have the chance to examine particular ethical challenges they are likely to face in their law practices. Finally, most law students who go on to practice public interest law are ill prepared for the heavy toll the work will take on them emotionally and spiritually. Low pay, enormous school debt, the poignant life situations of their clients, and their inability to effect change in ways they had hoped all contribute to that heavy toll. If law schools valued social justice more and provided an education that included more practical learning experiences, it would communicate to applicants and students that the school does not merely talk about its commitment to its public interest students but that it actually values and understands their career goals. This message alone would attract higher caliber students, including those who are serious about social justice issues and are committed to solving the most difficult problems in our society.

There is no question that all of our students need more hands-on legal experience and more classes where writing, researching, negotiating, and oral skills are valued, relevant, and integrated with intellectual skills and doctrine. However, as law schools across the country discuss ways to change curricula to ensure that students are practice ready, it is important to keep in mind that students have differing career paths. All law students will require traditional legal skills, but many students may also have different and important nontraditional needs.

In Part II of this article, I discuss what it means to be a public interest lawyer. I provide some examples of what new lawyers do in practice, including a 2012 graduate working at the Northwest Workers Justice Project (NWJP) and two recent law school graduates who founded the Oregon Justice Research Center (OJRC). In Part III, I discuss what's missing for public interest law students in legal education. I then suggest specific elements that should be added to the law school curriculum in order to improve and enhance the education of public interest oriented law students. Some suggestions will assist all law students in improving their skills and promoting public service. In Part IV, I recommend a few ways to shift the culture⁷ in law

7. Susan Sturm & Lani Guinier, *The Law School Matrix*, 60 VAND. L. REV. 515, 519 (2007) (describing law school culture as "breed[ing] a culture of competition and conformity" that "exerts a constant pressure to make comparisons along a uniform

schools by incorporating public interest skills based pedagogy into the curriculum in the first year. I also describe a few examples of how law school professors around the country have created upper level courses in public interest law, including my own course at Lewis & Clark Law School.⁸ Although no course or method offers a perfect road map to fill the gaps suggested above, it is still useful to examine a few of the current offerings with an eye toward creating future courses. It is also important to determine how public interest courses might address the gaps and shortcomings of a traditional legal education and create a culture shift that is beneficial to all law students and future lawyers.

II. What is a Public Interest Lawyer?

A. Defining Public Interest Law

Harvard Law School's website includes a page titled, "What is Public Interest Law?"⁹ It provides explanations of public interest practice settings, work types, issue areas, and public service in the private sector. Under public interest practice settings, it reads: "Public service practice takes place in legal services and law reform organizations, as well as in government agencies at all levels. It encompasses charities, educational and public international organizations, private public interest law

axis"). Profs. Sturn and Guinier have found that moral values and policy judgments - the very factors that often underlie student's social justice passions - are actively devalued in the law school culture. *Id.* As one of my own students has explained, "Public interest students need to feel that their intended career path is equally as valuable as those who intend on working a traditional law firms. However, this is challenging when few courses, if any, directly address what it means to be a social justice lawyer. This, coupled with the lack of discussion regarding social justice in substantive law classes, has a tendency to create a culture in law school that leaves public interest students feeling isolated and that their perspectives on the current legal system are invalid and uneducated. The fact is that justice does not apply equally to all people in all situations. To pretend otherwise in the classroom does a disservice to those who came to law school with the goal of working to fix the inequities they perceive, and also harms all students by providing them with a skewed and incorrect understanding of the law as it functions today." E-mail from Diana Winther, Lewis & Clark Law Student, to author (June 5, 2013, 11:10 PM) (on file with author).

8. I created and first taught my upper level course, "Public Interest Lawyering: Theory and Practice," with my former colleague at Brooklyn Law School, Professor Cynthia Godsoe.

9. *What is Public Interest Law?*, HARVARD LAW SCHOOL, <http://www.law.harvard.edu/current/careers/opia/public-interest-law/index.html> (last visited Sept.28, 2013).

firms and private law firms performing *pro bono* work.”¹⁰ This explanation is followed by a list of links to access additional information about each practice setting: nonprofit and legal services organizations, public defenders, prosecuting attorneys, federal, state, and local government, elected office, political campaigns, international public interest work, foundations, labor unions, courts, and private public interest law firms.¹¹ There is also a link entitled “alternatives to traditional public interest lawyering,” which is described as “a multitude of public interest jobs that do not necessarily require a law degree but in which lawyering skills prove advantageous.”¹² According to Harvard Law School, the long and inclusive list provided merely covers a “small sampling of opportunities” that public interest lawyers work in.¹³ I point this out to show how far “public interest law” has come since its official inception in the 1960s.¹⁴ While

10. *What is Public Interest Law?*, *supra* note 9.

11. *Public Service Practice Settings*, HARVARD LAW SCHOOL, <http://www.law.harvard.edu/current/careers/opia/public-interest-law/practice-settings/index.html> (last visited Oct. 7, 2013).

12. *Alternatives to Traditional Public Interest Lawyering*, HARVARD LAW SCHOOL, <http://www.law.harvard.edu/current/careers/opia/public-interest-law/practice-settings/alternativee.html> (last visited Sept. 28, 2013).

13. *Id.* The website also includes a list of issue areas that public interest lawyers often work in. Such areas listed include: AIDS/HIV, animal issues, arts/entertainment, bankruptcy/debt, business/economic issues, children/youth, civil rights/liberties, communications, consumer, criminal, death penalty, disability, domestic violence, economic development, education, elderly, environment/energy/utilities, family, farm/migrant worker, First Amendment, gay/lesbian/bisexual/transgender issues, gun control issues, government accountability/legal reform/whistleblowers, health/medical, homelessness/housing, human rights, immigration/refugee, intellectual property/technology, labor/employment, municipal law, Native American/tribal law, personal injury/medical malpractice/products liability, prosecution, poverty, public defenders, legal services, prisoner issues, property/real estate, racial/ethnic justice/cultural rights, religious issues, reproductive issues, security/defense/arms control, tax, trade, transitional justice/democratic process, trusts and estates, voting/campaign finance, and women’s issues. *Public Interest Issue Areas*, Harvard Law School, <http://www.law.harvard.edu/current/careers/opia/public-interest-law/issue-areas/issue-areas.html> (last visited Oct. 7, 2013).

14. Obviously, lawyers were working for the poor and disenfranchised and for social change long before the term “public interest law” was created. *See, e.g.,* Susan D. Carle, *Race, Class, and Legal Ethics in the Early NAACP (1910-1920)*, 20 *LAW & HIST. REV.* 97, 101 (2002) (“By the late nineteenth century, African-American lawyers working in local communities had begun to experiment with the use of citizens’ organizing committees to challenge racial injustice.”); Marlene Coir, *Pro Bono and Access to Justice in America, A Few Historical Markers*, 90-*OCT MICH. B.J.* 54, 54 (2011) (“In 1876, what is recognized as the first American legal aid society began to serve the German immigrants of New York. Der Deutsche-Rechtsschutz-

defining prosecutors, other government lawyers, and private lawyers doing pro bono work, as public interest lawyers would surely generate debate and disagreement, there is no question that public interest lawyering has evolved.¹⁵ Today it includes settings, issues, techniques and skills not fully contemplated a half a century ago.¹⁶

The term public interest law was first used in the 1960s to describe a movement that used primarily litigation to advance the rights of disadvantaged groups such as racial minorities, the poor, and women, along with defending public goods such as

Verein was conceived to provide ad hoc assistance in such matters as domestic and landlord-tenant disputes and generally discourage the exploitation of the newly arrived foreigners.”); Amber McKinney, *The ACLU and the Propriety of Dispute Resolution in Civil Rights Controversies*, 6 PEPP. DISP. RESOL. L.J. 109, 110 (2006) (“The American Civil Liberties Union (‘ACLU’) was founded in 1920 by Roger Baldwin, Crystal Eastman, and Albert DeSilver. The development of this public interest organization centered around a concern for preserving basic civil liberties that individuals perceived as threatened by the government.”); Scott L. Cummings & Ingrid V. Eagly, *After Public Interest Law*, 100 NW. U. L. REV. 1251, 1252 (2006) (reviewing JENNIFER GORDON, *SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANT RIGHTS* (2005) (“The NAACP’s famous victory in *Brown v. Board of Education* in 1954 focused national attention on the possibility that public interest law could in fact transform society.”)).

15. See Ann Southworth, *What is Public Interest Law? Empirical Perspectives on an Old Question*, 62 DEPAUL L. REV. 493, 495-96 (2012). “The contest over the meaning of public interest law is symbolically important because the phrase conveys approval; the organizations, activities, and lawyers associated with the term are understood to enhance access to justice, or advance some vision of the public good. This struggle over discourse also carries direct and practical implications because financial benefits—such as law school scholarship eligibility, summer funding, loan forgiveness, and pro bono credit—sometimes turn on the definition of public interest law. Thus, how the phrase is used and defined is integrally related to the allocation of some types of legitimacy and resources within the American legal profession.” *Id.*

16. See Email from Kerry O’Brien, Director of Federal Programs and Strategic Initiatives, EJW, to author (June 7, 2013) (“Public interest law is legal advocacy on behalf of disenfranchised individuals or groups, or issues that are not adequately represented by some aspect of our legal system. Public interest law includes those working in nonprofit organizations, government-funded offices, such as public defender offices, and those who provide volunteer hours as part of or in addition to their work in a for profit enterprise. Our definition of public interest law includes a wide range of approaches such as direct representation, impact litigation, policy advocacy, legislative lawyering, community legal education, transactional legal work, law and organizing, and administrative law.”); see generally *Helping Lawyers Help Community*, EQUAL JUSTICE WORKS, <http://www.equaljusticeworks.org/about> (last visited Oct. 7, 2013) (that the EJW provides support for law students and practicing attorneys interested in equal justice through their extensive programs, fellowships, and their ability to “offer more postgraduate, full-time legal positions in public service than any other organization.”).

environmental or consumer protection.¹⁷ By the 1970s, the funders of the movement defined public interest law in another way. It was “the representation of the underrepresented in American society” and included legal services to “poor or otherwise deprived individuals who are unable to hire counsel.”¹⁸ In its legal collective action, it worked “for the benefit of large classes of people” who could neither afford the costs of such lawsuits nor easily organize to assert their political interests.¹⁹

As the movement grew over time, both conservatives on the right and those on the left challenged its goals and methods. Throughout the 1980s and well into the 1990s, defining public interest law became more complicated and controversial: conservatives questioned the beneficiaries of the movement’s efforts and its political motivations.²⁰ The left questioned its reliance on litigation and its inadequacy in creating democratic and participatory social transformation.²¹ To this day, there is no

17. ALAN K. CHEN & SCOTT L. CUMMINGS, PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE 5-6 (2013) (citing Louise G. Trubek, *Public Interest Law: Facing the Problems of Maturity*, 33 U. ARK. LITTLE ROCK L. REV. 417, 417-20 (2011); see also Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027, 2032-37 (2008).

18. CHEN & CUMMINGS, *supra* note 17, at 6 (citing Gordon Harrison & Sanford M. Jaffe, *Public Interest Law Firms: New Voices for New Constituencies*, 58 ABA J. 459, 459 (1972).

19. Gordon Harrison & Sanford M. Jaffe, *Public Interest Law Firms: New Voices for New Constituencies*, 58 ABA J. 459, 459 (1972)..

20. Ann Southworth, *Conservative Lawyers and the Contest over the Meaning of “Public Interest Law,”* 52 UCLA L. REV. 1223, 1247-49 (2005) (explaining that conservatives viewed traditional public interest groups as not representing the full spectrum of what was in the public’s best interest, but were merely special interest groups; rather than fight against those groups, they chose to establish their own organizations focusing on legal fields that reflected conservative values).

21. CHEN & CUMMINGS, *supra* note 17, at 7. See also Paul R. Tremblay, *Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy*, 43 HASTINGS L.J. 947, 952 (1992) (“The rebellious idea of lawyering for the subordinated seeks to address the three defects in conventional lawyering . . . the interpersonal domination of clients by lawyers; the disempowerment that accompanies reliance on litigation-based dispute resolution or its equivalent; and the inefficacy of intrasystemic remedies to achieve meaningful change in the lives of poor clients.”); Rose Cuison Villazor, *Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, of Color and Immigrant Communities*, 8 N.Y.U. J. LEGIS. & PUB. POL’Y 35, 37 (2005) (“This [community lawyering] approach focuses on engaging lawyers to de-emphasize litigation as the primary tool for advancing social justice. Instead, community lawyering encourages lawyers to critically and creatively examine non-traditional forms of advocacy such as organizing and other grassroots actions as a way of addressing the legal and non-legal problems of their clients.”).

one-way to define public interest law, and there is no agreement on what exactly a public interest lawyer is or does.²² Rather, as Professors Alan Chen and Scott Cummings explain, “[b]ecause there are no value neutral boundaries, what ultimately qualifies as public interest law turns on how one identifies the relevant criteria and values them in relation to one’s conception of a just society.”²³

One significant way in which public interest lawyering has changed is in the broad range of advocacy techniques used. Long gone are the days when litigation was the best and/or the only way to effect change.²⁴ Today’s public interest lawyers must use a variety of strategies and techniques to properly advance their causes or win their cases. They must combine the traditional practice of law with multiple, well-coordinated advocacy strategies to be successful. These advocacy tools include “lobbying, engaging and educating your constituents, educating policy makers, litigating, working with regulators, conducting and disseminating research and analysis, organizing and convening key constituencies, working with the media, nonpartisan voter education and mobilization.”²⁵ In addition, client and group empowerment, digital strategies, messaging, coalition building, and of course, fundraising are other important and useful tools. While no one case or cause will likely require all of these tools, every public interest lawyer should utilize them to properly strategize and be effective. Although it is impossible for most lawyers to have expertise in all of these areas, they should have a general understanding of how each can be used as part of a larger strategy, and should hopefully be competent in at least some of them in order to be effective advocates and make the most of their resources.

B. Examples of Public Interest Lawyers

A recent job posting for a Staff Attorney position at the ACLU in Michigan²⁶ seeks individuals to assist in fulfilling the

22. For the purposes of this article, I define public interest lawyers in the broadest terms, as all lawyers working towards social justice.

23. CHEN & CUMMINGS, *supra* note 17, at 7-8.

24. *Id.*

25. *Make Democracy Work*, ALLIANCE FOR JUSTICE, <http://www.afj.org/for-nonprofits-foundations/resources-and-publications/free-resources/make-democracy-work.pdf> (last visited Oct. 10, 2013).

26. Job Announcement, ACLU Michigan (April 21, 2013) (on file with author).

organization's legal and non-legal needs. According to the job posting, the attorney would be responsible for investigating, developing, and litigating impact civil liberties and civil rights cases in both state and federal court.²⁷ This would include such tasks as conducting factual research, drafting court documents, presenting oral arguments, and recruiting and collaborating with cooperating attorneys.²⁸ The attorney would also act as a spokesperson for the organization, and be required to write op-eds, newsletter articles, and reports as needed.²⁹ He or she would need to be involved with the development and implementation of advocacy campaigns that integrate the organizations communication, legislative, field organizing, and legal programs.³⁰ While situations vary, as this ad indicates, most new public interest lawyers will be competing for positions that require a broad range of professional responsibilities outside of traditional lawyering.

Not only do these new attorneys need skills beyond the standard legal proficiencies, they often need them right away. For example, in 2012, the Northwest Workers Justice Project (NWJP), a non-profit organization dedicated to providing access to employment-related legal resources for low-income working people in the Northwest through a combination of legal advocacy, legislative work, and community education,³¹ hired new attorney and legal fellow, Erin Pettigrew.³²

Pettigrew is a 2012 graduate of the University of Washington School of Law and her position is currently funded by the Initiative for Public Interest Law at Yale.³³ Although her focus is wage judgment collections, Pettigrew has been involved in all aspects of NWJP's work.³⁴ The variety of her assignments and responsibilities serves as a perfect example of what recently graduated public interest lawyers face. Pettigrew conducts client screenings and meets regularly with potential clients on the

27. Job Announcement, *supra* note 26.

28. *Id.*

29. *Id.*

30. *Id.*

31. *About*, NORTHWEST WORKERS' JUSTICE PROJECT, <http://nwjp.org/about/> (last visited Oct. 10, 2013).

32. Interview with Erin Pettigrew, NWJP Attorney (June 13, 2013) (on file with author).

33. *Id.*

34. *Id.*

organization's clinic days to access possible legal claims.³⁵ She then reports her findings at a weekly case review so that the staff can strategize about how best to proceed.³⁶ Pettigrew serves as lead counsel in a number of active wage and hour cases currently being litigated in federal court.³⁷ She writes demand letters, complaints, and other related court documents, and engages with opposing counsel to discuss possible settlement agreements and to enforce existing judgments.³⁸

In addition to these traditional legal tasks, Pettigrew has been involved in NWJP's legislative work by participating in lobbying, assisting other attorneys to select clients for testimony at hearings, and discussing tactical approaches as the organization's proposed bills move through the Oregon Legislature.³⁹ Pettigrew has also been significantly involved in the organization's fundraising process.⁴⁰ She has engaged in planning events, such as the organization's Tenth Anniversary Campaign kick-off celebration.⁴¹ She participates in development strategy meetings as the Anniversary campaign continues, and seeks continued funding of her own position by applying for fellowships.⁴² She is also engaged in the organization's grant application process, and recently submitted a letter of inquiry to the Multnomah Bar Foundation to solicit funds for a series of illustrated, limited-literacy booklets.⁴³ These booklets are designed to inform the public of various aspects of the legal process, which include small claims court procedures, explanations of evidence and depositions, and what happens after a judgment has been issued.⁴⁴ Another important aspect of Pettigrew's work is community outreach and education. She engages in worker and advocate outreach to teach collection strategy in wage and hour cases.⁴⁵ She plans to develop and publish a collections guide for Oregon workers and their advocates and will present the materials in know-your-rights

35. Interview with Erin Pettigrew, *supra* note 32.

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. Interview with Erin Pettigrew, *supra* note 32.

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. Interview with Erin Pettigrew, *supra* note 32.

sessions and advocate trainings.⁴⁶ Her outreach efforts include involvement in national conversations around wage collections advocacy through the Low Wage Worker Legal Network and national conferences.⁴⁷

As for how well her law school education prepared her for public interest practice? Pettigrew says, there “was a notable lack of social justice instruction” in her 1L classes; however, credits her “wise mentors who encouraged [her] to do as much experiential learning as law school allows.”⁴⁸ Their counsel led her to take “advantage of clinical opportunities, community *pro bono* projects, and externships so that [she] could meaningfully help clients after graduation.”⁴⁹ Erin also wished that her law school had provided her with “more opportunities to learn from and discuss ethical issues pertinent to plaintiff side/legal aid/public interest lawyering.”⁵⁰

While I had a great ethics class, there are a lot of unique challenges in my practice such as serving groups of low income clients, particularly vulnerable communities, working with other social justice organizations, issues around making good law vs. client interests, that we just didn’t get into in law school. I think some discussion about the real-life ethical issues that public interest lawyers face would be a great service those who are heading down that path.⁵¹

Fundraising was another subject that Erin wishes she had learned in law school: “I think [another important skill that] is lacking in law school is a basic orientation on finding non-profit, public interest funding. Public interest lawyers need to be thinking about grant writing, independent fundraising, research grants, etc.”⁵²

In a move that many public interest students only dream about, S. Bobbin Singh and Erin McKee, 2011 graduates of Lewis & Clark Law School, decided to start their own public interest

46. Interview with Erin Pettigrew, *supra* note 32.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. Interview with Erin Pettigrew, *supra* note 32.

52. *Id.*

organization. In fact, they started the Oregon Justice Resource Center (OJRC) before finishing law school.⁵³ They credit “the lack of public interest opportunities combined with the very competitive job market.”⁵⁴ According to Singh the lack of opportunities forced the pair to be “creative and daring from the very start of our legal careers.”⁵⁵ “[We] realized [we] would have to create our own positions if [we] wanted to do . . . public interest law and social justice advocacy.”⁵⁶

OJRC “assists with trial and appellate litigation on behalf of indigent, prisoner, and low-income clients in federal and state courts on a range of civil liberties and civil rights matters, including but not limited to the death penalty, immigrant rights, and unfair procedural barriers to the courts.”⁵⁷ OJRC does this by providing legal services, “including research and legal writing, to attorneys and nonprofit legal organizations working on impact litigation in the areas of capital defense, indigent defense, and immigration law.”⁵⁸ It also develops and supervises structured opportunities for law students to work in these areas through OJRC’s collaborative relationship with three specific nonprofit organizations: Oregon Capital Resource Center,⁵⁹ Metropolitan Public Defender Services, Inc.,⁶⁰ and Sponsors Organized to Assist Refugees Immigration Legal Services (SOAR Legal).⁶¹

53. E-mail from Bobbin Singh, Executive Director, OJRC, to author (May 28, 2013, 8:30 PM) (on file with author).

54. *Id.*

55. *Id.*

56. *Id.*

57. OREGON JUSTICE RESOURCE CENTER, <http://ojrc.info/> (last visited Oct. 10, 2013).

58. *FAQ*, OREGON JUSTICE RESOURCE CENTER, <http://ojrc.info/faq/> (last visited Oct. 10, 2013).

59. The Oregon Capital Resource Center “serves as a resource, advocacy, and training center for attorneys, mitigation specialists, and investigators representing capital clients in pre-trial, trial, and post-conviction death penalty cases, and provides direct representation in capital cases.” OREGON CAPITAL RESOURCE CENTER, <http://www.orcrc.org/home.html> (last visited Sept. 24, 2013).

60. “Metropolitan Public Defender [Services] . . . is a private, non-profit law firm committed to providing high-quality criminal defense for indigent clients.” *About Our Office*, METROPOLITAN PUBLIC DEFENDER SERVICES, INC., <http://www.mpdlaw.com/about> (last visited Sept. 24, 2013).

61. “SOAR Immigration Legal Services provides culturally competent, immigration-related legal representation and education to low income refugees and immigrants in and around the Portland metro area.” *SOAR Immigration Legal Services, About Us*, SPONSORS ORGANIZED TO ASSIST REFUGEES IMMIGRATION LEGAL SERVICES, ECUMENICAL MINISTRIES OF OREGON,

Based on their own experiences in law school, Singh and McKee understood that law students want more practical skills opportunities but recognized that nonprofit organizations/practitioners are overstressed and underfunded.⁶² As a result, many are unable to supervise as many legal interns as are needed. Thus, Singh and McKee created OJRC to not only provide much needed assistance to organizations/practitioners, but also to prepare and inspire the next generation of social justice lawyers.⁶³ As OJRC has grown, the pair have expanded their plans to include advocating for individual clients, systemic change in the law, and increasing civic engagement.⁶⁴

As OJRC's Executive Director, Singh manages the organization's day-to-day operational and administrative duties, supervises students, coordinates community outreach, and solicits donors.⁶⁵ In fact, Singh spends approximately 50% of his time fundraising, about 35% of his time administering OJRC (which includes organizing, educating, collaborating and supervising students), and about 10% engaging in media related activities, particularly on OJRC's blog, website and social media outlets.⁶⁶ While Singh believes everything he does is directly related to strategizing for the organization, he is surprised how rarely he performs traditional legal work, commenting: "I completely underestimated the time I would have to spend administering the organization. I thought I could do both the administrative and substantive legal work, however, this is not the case. My work, which I have now accepted, is . . . almost 100% administrative and fundraising."⁶⁷ In addition to gaining the more traditional legal skills taught in law school, Singh wishes he could have taken courses in nonprofit management and advocacy.⁶⁸ Finally, Singh believes one of the greatest deficits in his law school experience "was the lack of a clear place or a community for students who were interested in social justice advocacy and public interest law."⁶⁹ Now, with the OJRC, he has

http://www.emoregon.org/soar_legal.php (last visited Sept. 24, 2013).

62. E-mail from Singh, *supra* note 53.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. E-mail from Singh, *supra* note 53.

68. *Id.*

69. *Id.*

created that community for Lewis & Clark Law students.

III. What's Missing In Legal Education for Public Interest Students?

A. Criticism of Legal Education Generally

There is a growing consensus that American law schools need to do a better job of preparing their students to practice law.⁷⁰ Although legal education has evolved over the years, much of the criticism centers on the case method approach making it difficult to effectively combine instruction in legal doctrine with practical skills.⁷¹ The criticism of law schools and the pressure to change legal education has been building and has been taken more seriously over the last five plus years.⁷² This is largely due in part to the economic crisis, which has affected all legal sectors.⁷³ However, the need for more skills and preparedness in legal education has been discussed for years.

The American Bar Association's 1992 "MacCrate Report,"⁷⁴

70. See, e.g., Leah M. Christensen, *The Power of Skills: An Empirical Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success (Or in Other Words, It's Time for Legal Education to Get Serious About Integrating Skills Training Throughout the Law School Curriculum if We Care About How Our Students Learn)*, 83 ST. JOHN'S L. REV. 795 (2009); James E. Moliterno, *The Future of Legal Education Reform*, 40 PEPP. L. REV. 423, 429-30 (2013); Segal, *supra* note 1.

71. See Todd D. Rakoff & Martha Minow, *A Case for Another Case Method*, 60 VAND. L. REV. 597, 600 (2007) ("Langdell's case method fails. . . . because lawyers increasingly need to think in and across more settings, with more degrees of freedom, than appear in the universe established by appellate decisions and the traditional questions arising from them."); Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 516 (2007) ("The curriculum over-emphasizes adjudication and discounts many of the important global, transactional, and facilitative dimensions of legal practice. Law school has too little to do with what lawyers actually do and develops too little of the institutional, interpersonal, and investigative capacities that good lawyering requires.").

72. See *supra* note 1.

73. See Hillary Mantis, *Legal Hiring Down Despite Job Growth in Other Areas of Economy*, NAT'L JURIST, <http://www.nationaljurist.com/content/legal-hiring-down-despite-job-growth-other-areas-economy>; Adam Cohen, *Just How Bad Off Are Law School Graduates?*, TIME IDEAS, <http://ideas.time.com/2013/03/11/just-how-bad-off-are-law-school-graduates/>.

74. AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereafter MacCrate Report]; see Marilyn V. Yarbrough, Symposium, *Legal Education at the Threshold of the New Millennium: Closing Remarks*, 15 ST. JOHN'S J. LEGAL COMMENT. 349, 349 (2001) ("The [ABA's] MacCrate Commission

called for a shift in law school curricula to address the need for skills and values inherent in successful legal practice.⁷⁵ The MacCrate Report concluded that law students are ill prepared for the practice of law due to the absence of practical or clinical skills training in law school.⁷⁶ Yet, ten years after the MacCrate Report was published, Professor Russell Engler assessed that gaps continued to exist between the Report's recommendations and law school curricula.⁷⁷ Professor Engler asserted that, "there is little evidence to believe that the MacCrate Report transformed legal education, or led to sweeping changes when measured by the more ambitious criteria or goals."⁷⁸ Professor Engler proposed that law schools should extend participation in legal clinics and externship programs to first-year students as one method of closing the gap.⁷⁹

Fifteen years after the MacCrate Report was published, in 2007, the Carnegie Foundation issued the "Carnegie Report," finding that most law students were still left to acquire practical legal training on their own—often delaying the development of skills until after professional licensure.⁸⁰ To counter this deficiency, the Carnegie Report recommended "an integrated three-part curriculum [to] . . . better prepare students for the varied demands of professional legal work."⁸¹ The three parts are: "(1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and (3) exploration and assumption of the identity, values and dispositions consonant with the fundamental purposes of the legal profession."⁸² It is important to note that the Carnegie Report was sparked by a

was headed by Robert MacCrate from Sullivan & Cromwell a number of years ago and it was composed of judges, legal educators, practicing attorneys and we were charged with developing a continuum of legal education that was actually pre-law through the end of a legal career.").

75. Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLINICAL L. REV. 109, 114 (2001).

76. *Id.* at 114-15.

77. *Id.* at 109.

78. *Id.* at 146.

79. *Id.* at 158.

80. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 88 (2007).

81. CARNEGIE REPORT SUMMARY, *supra* note 3, at 8.

82. *Id.*

“relative lack of responsiveness by the law schools, taken as a group, to the well-reasoned pleas of the national bar and its commissions” to address the weaknesses of legal education.⁸³ In fact, the American Bar Association called on law schools to “elevate the twin concepts of the practice of law as a public service calling and the development of the capacity for reflective moral judgment to the same level as legal knowledge and traditional legal skills.”⁸⁴

Many scholars and practicing attorneys generally agree with the findings of the MacCrate and Carnegie Reports and argue that a transformation of the current model is necessary to improve the legal profession.⁸⁵ They have demonstrated that skill-based courses and an integrated model—one that includes practical applications of lawyering skills or simulations—can greatly enhance student success and future practice.⁸⁶ Along these lines, they have argued that the current method of legal pedagogy alone fails to adequately train students in integral legal practice “skill areas” and remains detrimentally outdated.⁸⁷

83. CARNEGIE REPORT SUMMARY, *supra* note 3, at 8.

84. *Id.* (quoting the American Bar Association (1996)).

85. *See, e.g.*, Sandra A. Hansberger, *The Road to Tomorrow*, 57 OR. ST. B. BULL. 9, 10 (1997) (“The [MacCrate] skills statement also provides helpful criteria for practicing lawyers to evaluate their lawyering skills and can be used as a tool for law schools in providing balance in their existing practical skills curriculum and as a tool for students in helping to select their law school courses.”); Rachel J. Littman, *Training Lawyers for the Real World*, 82 N.Y. ST. B.A. J. 20, 21 (2010) (“It wasn’t until starting in the early ‘90s that the [MacCrate] and then Carnegie and other reports brought to light some thoughtful examination of the method of legal education and explored and recommended a more experiential learning-based approach geared towards teaching law students how to think *and* act like lawyers.”) (citations omitted); Richard A. Matasar, *Does the Current Economic Model of Legal Education Work for Law Schools, Law Firms (Or Anyone Else)?*, 82 N.Y. ST. B.A. J. 20, 21 (“[W]ithout change we surely will not optimally serve our clients and the public, and that it is the shared responsibility of law schools and the bar to improve our profession.”); James E. Moliterno, *Time to “Do”, Not “Talk,”* NAT’L L.J. L. SCH. REV. F. ON LEGAL EDUC. (Nov. 2, 2011, 9:41 AM), <http://legaltimes.typepad.com/lawschoolreview/2011/11/time-to-do-not-talk.html> (“Now, with every constituent demanding that legal education become more valuable to its graduates, to their prospective employers and clients, we can instigate a 21st Century reform.”).

86. *See, e.g.*, Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 MERCER L. REV. 909 (2008).

87. *See, e.g.*, R. Michael Cassidy, *Beyond Practical Skills: Nine Steps for Improving Legal Education Now*, 53 B.C. L. REV. 1515, 1516-17 (2012) (“Providing students with the analytical skills necessary to ‘think like lawyers’ by teaching them to read and dissect appellate decisions may no longer be sufficient to meet the

For example, Professor John Sonsteng has argued that “the legal education system does not provide a significant source of training in nine legal practice skill areas: (1) understanding and conducting litigation; (2) drafting legal documents; (3) oral communications; (4) negotiations; (5) fact gathering; (6) counseling; (7) organizing and managing legal work; (8) instilling others’ confidence in the students; and (9) providing the ability to obtain and keep clients.”⁸⁸ Adjunct Professor and practicing attorney Brent E. Newton⁸⁹ calls for increases in “practical competencies such as courtroom skills, negotiation, client counseling, public speaking skills, and business acumen,” as well as more emphasis on “problem-solving, risk management, and strategic thinking.”⁹⁰ Newton also recommends that externships and clinical education be a requirement for graduation; that practical courses on such topics as fiduciary duty to clients, negotiation, remedies, and factual investigation and development be mandatory; and that virtually all classes should address professional responsibility as well as incorporate legal writing elements.⁹¹ Professor R. Michael Cassidy also acknowledges the need for reform of law school pedagogy, but recognizes that many of the changes scholars prescribe will take years to implement.⁹²

demands of the legal marketplace. . . . The growing expectation of law firms is that graduates should be better trained during law school on the skills necessary to practice law. Because clients increasingly are balking at being billed for time spent by first- and second-year associates, law schools that do not modify their curricula to emphasize practical skills may find themselves at a competitive disadvantage in placing their graduates.”); Brent E. Newton, *Preaching What They Don’t Practice: Why Law Faculties’ Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105, 107 (2010) (arguing that law school faculties “increasingly resemble graduate school faculties at major research universities, whose primary mission is to produce academic scholarship and whose secondary educational mission is to produce more academic professors.”); John O. Sonsteng, et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 319 (2007) (“The criticisms of the legal education system began early and continue today.”).

88. Sonsteng, et al., *supra* note 87, at 318.

89. Professor Newton is a former Assistant Federal Public Defender and is currently the Deputy Staff Director of the United States Sentencing Commission and an Adjunct Professor at Georgetown Law Center. *Our Faculty*, Brent E. Newton, GEORGETOWN LAW, <http://www.law.georgetown.edu/faculty/newton-brent-e.cfm> (last visited Sept. 24, 2013).

90. Brent E. Newton, *The Ninety-Five Theses: Systemic Reforms of American Legal Education and Licensure*, 64 S.C. L. REV. 55, 83-84 (2012).

91. *Id.* at 91-94, 96-99.

92. Cassidy, *supra* note 87, at 1516-18.

In the meantime, he suggests a number of ways faculty can, on their own, begin to move forward with some of these improvements: by integrating greater collaboration, oral presentations and examinations, and problem-orientated approaches, as well as increasing exposure to foreign law and emphasizing the value of practical judgment, professors can better prepare their students for practice.⁹³ He also recommends additional courses and opportunities for interactions, such as “professional formation” retreats for students and faculty and courses focusing on potential career paths and practice management.⁹⁴

Former students, have also suggested that practical experiences should incorporate a rich and reflective “immersion experience” in legal pedagogy.⁹⁵ As one student explains it, “I entered the practice with so many basic questions. How do attorneys spend their days? How and where do I file a pleading? How do I draft an order? What do I do and say when I appear in court? How do I serve a defendant? How do I draft a motion to dismiss and when?”⁹⁶ Many law students also want more preparation on communicating with clients before they have real clients, “I wish there had been a class on how to relate to clients. . . . We learn legal language and concepts in law school to communicate with each other, but most of us could benefit from how to best communicate with clients, especially when they are in stressful situations.”⁹⁷

In further support of a revision or revitalization of pedagogical methodology, recent academic research has found that a student’s focus on mastery of knowledge and goals has a high correlation to their academic success.⁹⁸ This research indicates that the implementation of additional skills-based

93. Cassidy, *supra* note 87, at 1518-24.

94. *Id.* at 1525-29.

95. Jeffrey Ward, *One Student’s Thoughts on Law School Clinics*, 16 CLINICAL L. REV. 489, 495–96 (2010).

96. Adam J. Sheppard, *What Do You Wish You Had Learned in Law School?*, YOUNG LAWS. J., Nov. 2011, at 41 (quoting law student *Rebekah Rashidfarokhi*), available at <http://www.thesheppardlawfirm.com/Published-Articles/What-do-you-wish-you-had-learned-in-law-schools-CBA-Record-December-2011.pdf>.

97. Janice Fuhrman, *Coffee Talk: What Do You Wish You Had Learned in Law School?*, CONTRA COSTA LAWYER (June 1, 2013), <http://cclawyer.cccb.org/2013/06/coffee-talk-what-do-you-wish-you-had-learned-in-law-school/>.

98. Christensen, *supra* note 70, at 803-04.

classes will “promote and enhance law school learning” by focusing on: mastery-oriented pedagogy and goal setting, problem solving, collaboration skills, and “right-brain” learning.⁹⁹ The message from this debate rings clear. The stakes for students’ success and future employment within the legal profession are high. The criticism has arguably provided some momentum for change in how we teach doctrine and for the inclusion of more skills-based coursework, clinical opportunities, and externship placements in law school curricula.¹⁰⁰

There has also been considerable debate concerning the value of legal education.¹⁰¹ As the cost of legal education has soared,¹⁰² it is impossible to deny that employment opportunities within the legal market have declined.¹⁰³ At the same time, law

99. Christensen, *supra* note 70, at 812.

100. For example, Harvard Law School now has 27 clinics. *Clinical and Pro Bono Programs*, HARVARD LAW SCHOOL, <http://www.law.harvard.edu/academics/clinical/index.html> (last visited Oct. 2, 2013). William and Mary Law School has recently launched a Legal Practice program, designed to teach essential lawyering skills through simulations and increased writing instruction. Brian Kelly, *Law School Launches New Program, Legal Practice Program Provides Students with Practice-Ready Skills*, WILLIAM AND MARY LAW SCHOOL (Jan. 9, 2013), <http://www.wm.edu/news/stories/2013/law-school-launches-new-program123.php>. Yale Law School boasts over 20 clinics, and permits students to participate as early as the spring of their 1L year. *Clinical and Experiential Learning*, YALE LAW SCHOOL, <http://www.law.yale.edu/academics/clinicalopportunities.htm> (last visited Oct. 2, 2013). Albany Law School uses a combination of experiential 1L programs, clinics, moot court, and both problem-based and advanced simulation courses to provide a variety of ways in which law students can acquire practical legal skills. *Experiential Learning*, ALBANY LAW SCHOOL, <http://www.albanylaw.edu/academics/Pages/Experiential-Learning.aspx> (last visited Oct. 2, 2013).

101. Katherine Mangan, *As They Ponder Reforms, Law Deans Find Schools Remarkably Resistant to Change*, CHRON. OF HIGHER EDUC. (Feb. 27, 2011), <http://chronicle.com/article/As-They-Ponder-Reforms-Law/126536/> (“[U]nder the current system, going to law school makes economic sense only if a graduate earns a starting salary of at least \$66,000 a year.”).

102. William D. Henderson & Rachel M. Zahorsky, *The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills?*, A.B.A. J. (Jan. 1, 2012, 6:20 AM, CDT), http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/ (“In 2010, 85 percent of law graduates from ABA-accredited schools boasted an average debt load of \$98,500, according to data collected from law schools by *U.S. News & World Report*. At 29 schools, that amount exceeded \$120,000.”).

103. See, e.g., Press Release, Nat’l Ass’n for Law Placement, *Class of 2010 Graduates Saddled with Falling Average Starting Salaries as Private Practice Jobs Erode* (July 7, 2011),

schools have continued to produce a surplus of new lawyers.¹⁰⁴ Those in and out of the academy have argued that the price of a legal education does not match the market value of students' diplomas and, financially speaking, a law degree is simply "a bad investment."¹⁰⁵ More gently phrased by the Bureau of Labor,

<http://www.nalp.org/uploads/PressReleases/Classof2010StartingSalaryFindingsPressRelease.pdf>; Katherine Mangan, *Unemployment Among Recent Law Graduates Is as Bad as It's Ever Been*, CHRON. OF HIGHER EDUC. (June 7, 2012), <http://chronicle.com/article/Unemployment-Among-Recent-Law/132189/>.

104. Catherine Rampell, *The Lawyer Surplus, State by State*, N.Y. TIMES (June 27, 2011, 11:35 AM), <http://economix.blogs.nytimes.com/2011/06/27/the-lawyer-surplus-state-by-state/>. For example, Florida has nearly a dozen accredited law schools all churning out degree candidates: Ave Maria School of Law, Barry University Dwayne O. Andreas School of Law, Florida A&M University College of Law, Florida Coastal School of Law, Florida State University College of Law, Nova Southeastern University Law School, Saint Thomas University School of Law, Stetson University College of Law, University of Florida Fredric G. Levin College of Law, University of Miami School of Law, and Florida International University College of Law. California boasts over twenty including: UC Berkeley School of Law, California Western School of Law, UC Davis School of Law, University of California Hastings College of Law, University of California Irvine School of Law, UCLA School of Law, Chapman University School of Law, Golden State University of Law, Loyola Law School, McGeorge School of Law, Pepperdine University School of Law, University of San Diego School of Law, University of San Francisco School of Law, Santa Clara School of Law, USC Gould School of Law, Southwestern Law School, Stanford Law School, Thomas Jefferson School of Law, University of La Verne College of Law, Western State University College of Law, and Whittier Law School.

105. Richard A. Matasar, *The Viability of the Law Degree: Cost, Value, and Intrinsic Worth*, 96 IOWA L. REV. 1579, 1580–81 (2011) ("[I]nvariably, purely financial returns will be insufficient to make the law degree 'sensible' for many (most?) students."). See also Paul Campos, *Perspectives on Legal Education Reform: The Crisis of the American Law School*, 46 U. MICH. J.L. REFORM 177, 183, 201 (2012) ("A legal education was easily within the financial reach of the American middle class a generation ago and was a realistic career option for people of more modest socioeconomic backgrounds. It is now an enormously expensive investment. Given how the employment market for people with law degrees has changed over the same period, that investment has become a remarkably risky gamble."); Richard A. Westin, *The Need for Prompt Action to Revise American Law Schools*, 46 AKRON L. REV. 137, 155 (2013) ("[C]apable students are investing in law degrees, often as large as a mortgage, but are unemployable after graduation because the market is saturated. In short, J.D. funded through borrowed money produces a high cost with potentially non-existent benefits."); Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012, 10:18 AM), <http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html> ("Members of the law-school class of 2011 had little better than a 50-50 shot of landing a job as a lawyer within nine months of receiving a degree, according to a Wall Street Journal analysis of new data that provides the most detailed picture yet of the grim market for law jobs."); David Segal, *Is Law School a Losing Game?*, N.Y. TIMES (January 8, 2011), <http://www.nytimes.com/2011/01/09/business/09law.html> ("In reality, and based on every other source of information . . . a generation of J.D.'s face the grimmest job market in decades. Since 2008, some 15,000 attorney and

“Competition for jobs should continue to be strong because more students are graduating from law school each year than there are jobs available.”¹⁰⁶ Meanwhile, others have commented on trends such as clients’ increasing demands for cost-reductions, the decrease in law firm hiring of recent graduates, and the reduction of salaries.¹⁰⁷ The economic realities and hardships of new law school graduates also provide a strong argument for improving the current model of legal education.

Much of the discussion regarding pedagogical changes in legal education has focused on the implementation of skills-based courses, the need to increase opportunities within traditional firm practice, and the need for business-oriented courses and practicums.¹⁰⁸ What has been largely overlooked in much of the conversation, however, is a fruitful discussion of the way in which public interest law can be adapted to address the increasing need for better preparation, while at the same time “improving access to justice for people who are currently underserved.”¹⁰⁹

B. Traditional Legal Education Isn’t Set Up for Public Interest Students

My students explain it best:

Law school courses, even one in a top tier public interest law program, are not typically designed for a public interest law student. Even when professors encourage critical thinking about the law, I have often

legal-staff jobs at large firms have vanished, according to a Northwestern Law study. Associates have been laid off, partners nudged out the door and recruitment programs have been scaled back or eliminated.”).

106. U.S. Department of Labor, *Lawyers*, OCCUPATIONAL OUTLOOK HANDBOOK (Apr. 26, 2012), <http://www.bls.gov/ooh/legal/lawyers.htm>.

107. Steven C. Bennett, *When Will Law School Change?*, 89 NEB. L. REV. 87, 108-19 (2010).

108. Joy Martini & Nancy Rowe, *What Law Students Aren’t Learning, and Why it Matters*, N.Y. L. J. (April 22, 2013), http://www.newyorklawjournal.com/PubArticleNY.jsp?id=1202596404324&What_Law_Students_Arent_Learning_and_Why_It_Matters&slreturn=20130322111551;

Karen Sloan, *A Place for Lawyers to Learn Executive Skills*, NAT’L L. J. (May 20, 2013), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202600579805&thepage=1&slreturn=20130503140725>.

109. Emily A. Spieler, *The Paradox of Access to Civil Justice: The “Glut” of New Layers and the Persistence of Unmet Need*, 44 U. TOL. L. REV. 365, 368 (2013) (“There is a spirited discussion at national meetings and in the blogosphere about the fate of large law firms and the changing nature of global legal practice.” *Id.* at 377.).

felt that those issues are viewed as a distraction from the ‘real’ point of the class—i.e., learning black letter law and preparing for a time-pressured final. . . . [T]ypical law school courses can be really disheartening for a student interested in social justice. . . .¹¹⁰

It is no wonder that many students lose interest in pursuing a public interest career during their three years in law school. Professor Richard Abel has cited several reasons for this phenomenon: feelings of isolation and alienation, financial costs and economic burdens of public interest work, inadequate skills and training acquired through public interest clerkships, and the scarcity of public interest jobs.¹¹¹ This “public interest drift” is supported by data.¹¹²

Interestingly, there has been institutional support from bar associations, law schools, and professional legal organizations over the last ten to fifteen years for more law school initiatives that encourage students to enter into public interest careers, as well as a push for a more justice-oriented educational agenda.¹¹³ This institutional support has led to an increase in public service externships, employment opportunities, public interest certificate programs,¹¹⁴ specialized services to assist public interest

110. E-mail from Stacy Du Clos, Lewis & Clark Law Student, to author (February 25, 2013, 3:29 PM) (on file with author).

111. Abel, *supra* note 2, at 1566-70.

112. Addington & Waters, *supra* note 2, at 81 (“[T]he phenomenon of law students’ declining interest in pursuing public interest careers between their entry into law school and graduation.”).

113. *Id.* at 80. (citing NAT’L ASS’N FOR LAW PLACEMENT, EMPLOYMENT FOR THE CLASS OF 2009-- SELECTED FINDINGS 3 (2010), *available at* http://www.nalp.org/uploads/Class_of_2009_Selected_Findings.pdf (“Public service jobs . . . accounted for 25.8% of jobs taken by employed graduates.”); NAT’L ASS’N FOR LAW PLACEMENT, EMPLOYMENT FOR THE CLASS OF 2010-- SELECTED FINDINGS 2-3 (2011), *available at* <http://www.nalp.org/uploads/Classof2010SelectedFindings.pdf> (surveying law students nine months after the typical May graduation).

114. CHEN & CUMMINGS, *supra* note 17, at 412-13 (2013) (citing MacCrate Report, *supra* note 74, at 213-15). *See Access to Justice on Campus*, U.S. DEP’T JUST., <http://www.justice.gov/atj/atj-campus.html> (last visited Oct. 12, 2013). A number of schools offer a certificate in public interest law. *See, e.g., Center for Public Interest Law Certificate Program*, DEPAUL U. C.L., http://www.law.depaul.edu/centers_institutes/public_interest/certificate_program.asp (last visited Oct. 12, 2013); *Certificate and Curriculum*, SANTA CLARA L., <http://law.scu.edu/socialjustice/certificate-and-curriculum/> (last visited Oct. 12, 2013); *Certificate in Public Interest Law*, U. ALA. SCH. L., <http://www.law.ua.edu/public-interest-institute/certificate/> (last visited Oct. 12, 2013).

students, and support for more pro bono initiatives.¹¹⁵ Many of these efforts certainly help attract public interest minded students to law school and perhaps work towards changing the culture at law school. However, without a major shift in law school culture and more opportunities for public interest students in their course work, which generally still teaches students to “value the hierarchy of a law firm over a public interest career,”¹¹⁶ there will continue to be a dearth of graduates prepared to pursue careers as public interest lawyers.

i. Moving Beyond the Case Method in Doctrinal Classes

Beginning in the first year of law school, the traditional, case method curriculum teaches law students to read cases, interpret rules (black letter law), and understand the principles judges use to determine these rules. The entire process puts the professor front and center, and there is often little or no peer interaction. “All knowledge is mediated through a single figure [the professor] that sits atop a hierarchy.”¹¹⁷ As Duncan Kennedy has noted, “[t]he actual intellectual content of the law seems to consist of learning rules, what they are and why they have to be the way they are, while rooting for the occasional judge who seems willing to make them marginally more humane. The basic experience is of double surrender: to a passivizing classroom experience and to a passive attitude toward the content of the legal system.”¹¹⁸

All students could benefit from a more experimental learning

115. Schools provide a variety of ways for students to engage in pro bono work, including dedicated pro bono programs, annual events, awards and certificates of recognition, and even hour requirements for graduation. See *Access to Justice on Campus*, U.S. DEPT JUST., <http://www.justice.gov/atj/atj-campus.html> (last visited Oct. 12, 2013). Moreover, in 2013, New York became the first state in the nation to require pro-bono service as part of admission to the bar. Each applicant for the bar will need to volunteer 50 hours of law service, with the aim of helping poor New Yorkers who can't afford legal counsel. See N.Y. ST. BOARD L. EXAMINERS, <http://www.nybarexam.org/> (last visited Oct. 12, 2013). On June 11, 2013, a California State Bar Board of Trustees task force approved a recommendation to require that law students take practical skills courses and complete 50 hours of pro bono/low bono work as conditions for bar admission. See *Task Force on Admission Regulation Reform: Phase I Final Report*, ST. B. CAL. (June 11, 2013), <http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000010717.pdf>.

116. Jenée Desmond-Harris, “Public Interest Drift” Revisited: Tracing the Sources of Social Change Commitment Among Black Harvard Law Students, 4 HASTINGS RACE & POVERTY L.J. 335, 346 (2007).

117. Gewirtzman, *supra* note 3, at 785-86.

118. Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 592-95 (1982).

experience,¹¹⁹ rather than relying solely on the traditional case method approach in doctrinal courses. As many before me have suggested,¹²⁰ students could learn and practice a broad range of

119. The term “experimental learning” in this article refers to non-Socratic and non-traditional lecture teaching methods in the traditional classroom setting, including experiential learning, student collaboration, and class presentations. See NAT’L ASS’N FOR LAW PLACEMENT, 2011 SURVEY OF LAW SCHOOL EXPERIMENTAL LEARNING OPPORTUNITIES AND BENEFITS, 7 (2012), <http://www.nalp.org/uploads/2011ExpLearningStudy.pdf> (“[T]he data from this study suggest that these experiential learning opportunities, whether required or optional, can play an important role in preparing new lawyers for the demands of the practice of law.”). See also Kate E. Bloch, *Cognition and Star Trek: Learning and Legal Education*, 42 J. MARSHALL L. REV. 959, 978 (2009) (“The body of research results demonstrating improved learning for active cooperative small group approaches is impressive. In addition to the extensive empirical support for active learning, the results from the empirical studies on active learning are also consistent with constructivist learning theory. In concert with the emerging views about how people learn, educational researchers contend ‘that learning occurs when students . . . build knowledge structures by discovering their own answers and solutions. . . . [A]ctive learning occurs when students create their own interpretations and integrate current experiences with past knowledge about a given concept.”) (quoting CRAIG RICH ET AL., *Pedagogical Issues Underlying Classroom Learning Techniques*, in CLASSROOM COMMUNICATION AND INSTRUCTIONAL PROCESSES: ADVANCES THROUGH META-ANALYSIS 3, 35 (Barbara Mae Gayle, et al., eds., 2006)); Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 102 (2002) (“Students learn better when they are actively engaged in the learning process. And student motivation and involvement increase when teachers employ a variety of teaching and learning methods.”); Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law Schools*, 16 T.M. COOLEY L. REV. 201, 219 (1999) (“Cooperative Learning is more effective in developing higher-level reasoning. Students generate more new ideas and solutions, and are better able to transfer what they learned from one situation to another. Cooperative Learning is particularly effective where ‘retention is important, the task is complex, or students desire conceptual, problem-solving, divergent thinking, or they desire creativity, they expect quality of performance and higher level reasoning strategies, and they need critical thinking.”) (quoting DAVID W. JOHNSON ET AL., ACTIVE LEARNING: COOPERATION IN THE COLLEGE CLASSROOM, 2:13-14 (1991)).

120. Sandra A. Hansberger, *The Road to Tomorrow, How Much Practical Skills Instruction Should Law Students Get?*, 57 OR. ST. B. BULL. 9, 12 (May 1997) (“This may be accomplished by incorporating more practical skills into the traditional law school course.”); Robert G. Vaughn, *Use of Simulations in a First-Year Civil Procedure Class*, 45 J. LEGAL EDUC. 480 (1995) (describing the author’s use of simulations in class to introduce students to legal skills such as interviewing, drafting and presenting motions, and negotiating); Deborah Zalesne & David Nadvorney, *Integrating Academic Skills into First Year Curricula: Using Wood v. Lucy, Lady Duff-Gordon to Teach the Role of Facts in Legal Reasoning*, 28 PACE L. REV. 271, 275 (2008) (“There are myriad ways in which real legal methods objectives can be directly incorporated into a traditional first-year syllabus.”) (underlying idea for article was first set forth in David Nadvorney, *Teaching Legal Reasoning Skills in Substantive Courses: A Practical View*, 5 N.Y. CITY L. REV. 109 (2002)).

skills in tandem with the substantive material depending on the professor's interest and/or collaboration efforts with other faculty.¹²¹ For example, in large doctrinal courses, students could draft memoranda or complaints, conduct research, draft a section of a contract, negotiate an issue, interview a client (and perform other types of fact gathering), and/or collaborate in numerous ways. Integrating skills into doctrinal courses would still teach students how to read the law and understand the legal rules and principles behind them, but it would also teach them improved application, analysis, and problem solving. At the same time, it would give students experience using important lawyering skills, thus better preparing them to be a practicing attorney. The goal should not be to replace theory with skills, but rather to create curricula that both integrate practical skills and require varied intellectual skills and professionalism. In order to do this, law schools and law professors must be open to rethinking their "signature pedagogy" and to incorporating a more integrative approach to legal education.

For public interest students in particular, the case method's strict reliance on objectivity without an application of problem-solving principles often removes morality, politics, feelings, ethics, and justice from the discussion.¹²² It "obscures very real social differences that are pertinent to making just decisions; it can also create an appearance of neutrality that hides the fact that U.S. law continues to enact social inequities and injustices."¹²³ For these students, this approach, especially

121. To be clear, I am not advocating for the elimination of teaching legal theory. Quite the contrary, learning the "theoretical"—how to read carefully, to argue, analyze incisively — lays the foundations for lawyering. Competent and skilled lawyering is not merely a trade it also requires the development of deeper intellectual skills and ethical professionalism. Yet, I am advocating for the use of a more varied approach to teaching that includes using experimental learning techniques and skill-based problem solving methods.

122. ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO "THINK LIKE A LAWYER"* (2007); see also Howard S. Erlanger & Douglas A. Klegon, *Socialization Effects of Professional School: The Law School Experience and Student Orientations to School Reform*, 13 *LAW & SOC'Y REV.* 11 (1978); Duncan Kennedy, *supra* note 118 ("The point of class discussion will be that your initial reaction of outrage is naïve, non-legal, irrelevant to what you're supposed to be learning, and may be substantively wrong into the bargain. There are 'good reasons' for the awful result, when you take a legal and logical 'large' view, as opposed to a knee jerk passionate view, and if you can't muster those reasons, maybe you aren't cut out to be a lawyer.").

123. See Mertz, *supra* note 122; Sullivan, *supra* note 80, at 188.

without the incorporation of skills or social justice themes, is too removed from their goals of effecting change and solving society's problems. Without a more integrative approach in core doctrinal classes, we are not only missing an opportunity to shape lawyers who are more intellectually and practically well rounded, but we are not supporting the idealism and passion that brought many of our students to law school in the first place.

ii. Providing Courses That Focus on Social Justice Themes and Skills

Beyond reconsidering the traditional case method approach, public interest law students need more classes that specifically address social justice themes and advocacy skills. While clinics and externship placements, where students can work with clients on real issues in a legal environment, are a necessary component in training public interest lawyers, teaching them social justice theory, history, policy, ethics and advocacy skills in a classroom setting is important in and of itself. After all, the main activity in a classroom is learning. Learning, discussing, practicing and getting some feedback without the “high-pressure in a job environment” and learning “to appreciate the details of these skills” before entering the legal working arena is especially crucial to public interest students.¹²⁴ While there are numerous substantive courses in the law school curriculum that are considered useful to public interest students¹²⁵ and skills courses that these students are encouraged to take,¹²⁶ there are only a handful of schools that focus on the theory, skills, and approaches necessary to advance social justice, i.e., the “tools to transform

124. E-mail from Stacy Du Clos, *supra* note 110.

125. Such courses include civil rights litigation, disability law, environmental law, family law, immigration law, labor law, and voting rights/election law. *See, e.g., Public Interest Courses*, MARQ. U. L. SCH., <http://law.marquette.edu/community/public-interest-courses> (last visited Oct. 12, 2013); *Public Interest Law*, BOS. U. SCH. L., <http://www.bu.edu/law/prospective/jd/courses/publicinterestlaw.html> (last visited Oct. 12, 2013); *Curriculum Interest Areas, Public Interest Law*, MICH. L., <http://web.law.umich.edu/CurriculumInterestAreas/CurriculumInterestArea.aspx?cia=PUIN> (last visited Oct. 12, 2013); *Public Interest Law Certificate*, USF Sch. L., <http://www.usfca.edu/law/jd/certificates/pil/> (last visited Oct. 12, 2013).

126. Such courses include ADR, trial practice, practicums in such areas as international human rights, and labor/employment. *See, e.g., Curriculum Guide, Public Interest Law*, GEORGETOWN L., http://apps.law.georgetown.edu/curriculum/tab_clusters.cfm?Status=Cluster&Detail=23 (last visited Oct. 12, 2013); *Public Interest Law*, WASH. & LEE U. SCH. L., <http://law.wlu.edu/admissions/page.asp?pageid=1272> (last visited Oct. 12, 2013).

and restructure the world and its law to make our world a more just place.”¹²⁷

Public interest law lawyers regularly call upon doctrine and skills required by firm-positions. However, as discussed above, public interest work often requires additional knowledge and skills that are not addressed in most law school classes. Providing courses with the specific focus of teaching public interest lawyering is necessary to motivate students, to foster a public interest community, and to better prepare public interest oriented students intellectually and professionally for their careers.¹²⁸

IV. Ways to Integrate Social Justice into the Law School Curricula

Integrating public interest pedagogy throughout the law school curriculum starting in the first year of law school would be valuable to all students, regardless of career path. It would allow students to address current and relevant legal issues in connection to substantive law, while at the same time help to create a culture that not only supports public interest students but also instills the obligations of the profession to advance values of social justice and public service to all students.¹²⁹ As

127. Quigley, *supra* note 6, at 13. As Professor Quigley explains, “everyone knows that justice work is not the essence of the legal profession. Our professional essence is money, and the overwhelming majority of legal work consists of facilitating the transfer of money or resources from one group to another. . . . The actual message from law school and on throughout the entire legal career is that justice work, if done at all, is done in the margins or after the real legal work is done.” *Id.* at 11.

128. Nisha Agarwal & Jocelyn Simonson, *Thinking Like a Public Interest Lawyer: Theory, Practice, and Pedagogy*, 34 N.Y.U. REV. L. & SOC. CHANGE 455, 456–59 (2010).

129. Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 546 (2013). See also N.Y. ST. BOARD L. EXAMINERS, *supra* note 115; MacCrate Report, *supra* note 74, at 140-41, (noting that law schools should design curricula to promote core values of the legal profession including “promoting justice, fairness and morality”); CARNEGIE REPORT SUMMARY, *supra* note 3, at 9-10. Additionally, the Preamble of the ABA accreditation standards identifies these responsibilities. The preamble requires each law school to “provide an educational program that ensures that its graduates: (1) understand their ethical responsibilities as . . . public citizens responsible for the quality and availability of justice; . . . and 3) understand the law as a public profession calling for performance of pro bono legal services.” ABA Section of Legal Educ. & Admissions to the Bar, *Preamble*, ABA Standards & Rules of Procedure for Approval of Law Schools (2013), available at <http://apps.americanbar.org/abastore/products/books/abstracts/529008410ed%20prea>

Professor Deborah Rhode has noted, “[l]egal education could play a more active role on access to justice issues . . . by integrating those issues into curricular and programmatic activities.”¹³⁰ While there have been some efforts to “infuse the curriculum with justice,”¹³¹ still, “[r]elatively few law schools offer specialized courses focusing on issues related to access to justice and the topic is missing or marginal in the traditional core curriculum.”¹³²

A. 1L Opportunities

A few schools already integrate public interest themes into their first year skills or writing courses. For example, at Northeastern University Law School, first year students participate in the Legal Skills in Social Context (LSSC) program where they undertake research projects on social justice issues at the request of organizations throughout the country.¹³³ The LSSC is a group-learning program that “requires extensive collaboration and peer critique of work products.”¹³⁴ Participants in the LSSC program annually donate “approximately 15,000 hours of pro bono work” to social justice issues.¹³⁵ “These academic partnerships [with outside organizations] not only provide a strongly supervised value to community based organizations and agencies, but also promote the students’ understanding of problem solving to address social justice issues.”¹³⁶ Seattle University School of Law’s Legal Writing Collaborative also has first year students working with outside organizations to “perform research and prepare memoranda on issues currently faced by lawyers working in a range of legal

mble_abs.pdf.

130. Rhode, *supra* note 129, at 545.

131. Linda F. Smith, *Fostering Justice Throughout the Curriculum*, 18 GEO. J. ON POVERTY L. & POL’Y 427, 432-433 (2011).

132. Rhode, *supra* note 129, at 545 .

133. Note that Northeastern University School of Law and City University of New York Law School’s also incorporate social justice themes into many of their first year courses. See *Curriculum & Course Descriptions*, CUNY SCH. L., <http://www.law.cuny.edu/academics/courses/first-year.html> (last visited Oct. 19, 2013); E-mail from Wendy Parmet, Associate Dean, NUSL, to author (May 15, 2013) (on file with author).

134. *Faculty Directory, Susan A. Maze-Rothstein*, NORTHEASTERN U. SCH. L., <http://www.northeastern.edu/law/faculty/directory/maze-rothstein.html> (last visited Oct. 12, 2013).

135. *Id.*

136. *Id.*

services settings.”¹³⁷ The class works in conjunction with various organizations such as the ACLU and the National Employment Law Project.¹³⁸

These types of first year skills and writing courses are a positive beginning; however, more needs to be done to create a meaningful culture shift and provide students with more social justice learning early on. Beyond first year skills’ courses incorporating some social justice themes into assignments, doctrinal classes should do the same by covering some topics related to social justice. This could easily be achieved by incorporating readings and discussions on social justice topics related to the course. Examples of these topics include: (1) stop and frisk policies, racial profiling, and ineffective assistance of counsel in a criminal (procedure) law classes; (2) landlord/tenant relations, community development, and gentrification in property classes; (3) toxic and environmental torts and tort reform in torts classes; (4) class action suits involving low income plaintiffs and the use of summary judgment in race and sex discrimination suits in civil procedure classes; (5) arbitration clauses in consumer and employment contracts and the effects of language barriers in contracts classes; and (6) the list of possible topics is endless for constitutional law classes.¹³⁹

In addition to incorporating social justice themes into their curriculum, Professors could go one step further and include skills topics into these first year doctrinal courses. This would allow students to learn legal doctrine while simultaneously applying their lawyering skills in the context of social justice. Professors could then require students to conduct research, complete writing projects, work collaboratively, draft complaints and pretrial motions, give oral presentations, and/or create podcasts to name a few examples. These assignments and projects could be large or small depending on the professor’s goals. For example, students could complete a short research and writing project on the constitutionality of a recent Portland, Oregon “Arts Education and Access Income Tax” and address the

137. Mary Nicol Bowman, *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, 62 J. LEGAL EDUC. 586, 587 (2013).

138. Bowman, *supra* note 137, at 597, app. A.

139. These courses are just a few examples for traditional 1L courses. Upper level doctrinal courses could easily incorporate social justice themes as well.

related policy considerations.¹⁴⁰ Students could review the terms of arbitration clauses in consumer contracts (such as credit cards or cell phone plans) and present different arguments about the effect these clauses have on consumers.¹⁴¹ Students could research articles, videos and legal documents regarding the controversial New York City Police Department stop and frisk policy and debate the policy in class.¹⁴² Including even one such project, especially in a first year doctrinal course, would shift the focus of the class to social justice issues, help students connect skills to doctrine, and show the reality of the impact of law on people.

B. Upper Level Opportunities

Unlike in the first year curriculum, there has been a recent surge in the number of upper level courses available to public interest students. This section discusses the ways that professors at six law schools¹⁴³ are structuring these courses, including my own course at Lewis & Clark Law School. I hope to demonstrate

140. Aaron Mesh, *Second Lawsuit Says Arts Tax Violates U.S. Constitution*, WILLAMETTE WEEK (May 14, 2013), http://www.wweek.com/portland/blog-30187-second_lawsuite_says_arts_tax_violates_us_constitution.html.

141. See *Forced Arbitration, The Devil is in the Details*, AM. ASS'N FOR JUST., <http://www.justice.org/cps/rde/justice/hs.xsl/740.htm> (last visited Oct. 12, 2013); David Lazarus, *Consumer Bureau May Have Final Say on Arbitration Clauses*, L.A. TIMES (May 01, 2012), <http://articles.latimes.com/print/2012/may/01/business/la-fi-lazarus-20120501>

142. See Editorial, *Stop and Frisk on Trial*, N.Y. TIMES, May 21, 2013, at A26, available at <http://www.nytimes.com/2013/05/22/opinion/stop-and-frisk-on-trial.html?ref=stopandfrisk&r=0>; *Floyd, et al., v. City of New York, et al.*, CENTER FOR CONSTITUTIONAL RIGHTS, <http://ccrjustice.org/floyd> (last visited Oct. 12, 2013); *Times Topics, Stop and Frisk Policy – New York Police Department*, N.Y. TIMES TOPICS, http://topics.nytimes.com/top/reference/timestopics/subjects/s/stop_and_frisk/index.html (last visited Oct. 12, 2013).

143. These are a sample of the many ways law school faculties have developed public interest lawyering courses using both traditional and non-traditional skills, theory and professionalism. There are a growing number of such courses. See, e.g., *Course Descriptions*, U. CAL. DAVIS SCH. L., <http://www.law.ucdavis.edu/current/registrar/course-descriptions.html> (last visited Oct. 12, 2013) (offering course 293 Public Interest Law Seminar); *Public Interest Law & Practice*, STANFORD L. SCH., <http://www.law.stanford.edu/courses/public-interest-law-and-practice> (last visited Oct. 12, 2013); *Public Interest Lawyer Advanced Seminar*, FORDHAM L. SCH., <http://law.fordham.edu/registrar/20230.htm> (last visited Oct. 12, 2013). Also, in 2013, the first law school textbook dedicated to teaching an upper level course on public interest/social justice lawyering was published. See ALAN K. CHEN & SCOTT L. CUMMINGS, PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE (2013).

the potential these courses have in promoting more of a public interest culture as well as addressing some of the traditional curricula barriers public interest students face.

On one end of the spectrum is a public interest seminar framework that follows a more traditional law school course format. American University Washington College of Law provides a course titled “Global Public Interest Practice.”¹⁴⁴ Students attend class once a week and prepare for a guided discussion on selected readings.¹⁴⁵ The course surveys large themes within public interest law,¹⁴⁶ as well as academic critiques of public interest models.¹⁴⁷ Early course topics include defining public interest law and studying its history and evolution.¹⁴⁸ Later themes progressively add nuance to students’ understanding of global public interest practice and include readings on the “Post-Modern Critique of Public Interest Lawyering,” “Resistance Lawyering: Public Interest Practice in Repressive Regimes,” and “Models of Public Interest Practice and the Ever-Present Issue of Funding.”¹⁴⁹ Students must draft a paper for group discussion and review, with a final draft due at the end of the semester for evaluation and grading.¹⁵⁰ Students finish the seminar by reflecting upon, analyzing, integrating, and presenting knowledge they have acquired throughout the course. By allowing students to direct the discussion and choose research topics in which they are able to become experts, the course framework represents a step toward real public interest law pedagogy.¹⁵¹

On the other end of the spectrum is the semester-long Public Interest Research and Writing course offered at Rutgers School of

144. *Public Interest: Courses*, Am. U. Wash. C.L., <http://www.wcl.american.edu/publicinterest/courses.cfm#general> (last visited Oct. 12, 2013).

145. E-mail from Rick Wilson, Professor of Law, Am. Univ. Wash. Coll. of Law, to author (Oct. 1, 2012, 3:08 PM PST) (on file with author).

146. *Id.* For instance, the third week of the course addresses “How Public Interest Practice has Evolved in the Rest of the World” through practical guide readings and national case studies. *Id.*

147. *Id.* For instance, the sixth week of the course addresses “Theories and the Contested Terrain of Public Interest Practice.” The reading assignment “gives [students] a sense of some of the major theories and critiques that underlie work in the field of public interest law.” *Id.*

148. *Id.*

149. *Id.*

150. Email from Wilson, *supra* note 145.

151. *Id.*

Law. This course focuses on assisting students to master traditional legal skills in a “real world” public interest context.¹⁵² The class operates as “a writing workshop” in which students research and write a memo for a local government agency, the Philadelphia Law Department.¹⁵³

Students participating in this course will consider an authentic legal topic that is requested by either the Department’s Appeals or Civil Rights Unit.¹⁵⁴ In this way, the course focuses on students’ advanced legal research, writing, and constructive feedback skills applicable to the practice of public interest lawyering.¹⁵⁵ Students have the opportunity to engage critically in their own learning and mastery of concepts by giving and receiving “live feedback on specific parts of draft memos” during in-class oral presentations of their work.¹⁵⁶ Further, students participating in the course are encouraged and motivated by integrating their own knowledge and personal experience into the project.¹⁵⁷ Students complete the course with a portfolio that includes their memoranda, papers reflecting on the coursework, and feedback they provided to classroom peers.¹⁵⁸ The course provides a good example of how to combine traditional legal practice skills with active student-centered participation and public interest pedagogy.¹⁵⁹

Illinois Institute of Technology (IIT) Chicago-Kent College of Law combines some skills with traditional knowledge of legal practice in a different way. The semester-long course, Public Interest Law and Policy, focuses on “issues faced by public interest lawyers” by addressing substantive, socio-political, and

152. E-mail from Sarah Ricks, Professor of Law, Rutgers Sch. of Law, to author (Oct. 1, 2012, 5:31 AM PST) (on file with author).

153. *Id.*

154. *Id.*

155. Sarah Ricks, *Using Real Legal Research Assignments to Teach Upper Level Students*, 25 *THE SECOND DRAFT*, Spring 2011, at 16 (“For students on the cusp of becoming attorneys, it is useful to learn how to provide peer feedback on both written and oral presentations. To remove concerns about client confidentiality for the course, all students work for the same outside entity.”).

156. E-mail from Ricks, *supra* note 152.

157. Ricks, *supra* note 155, at 16 (“Students are motivated by the knowledge that their research will be used by a real attorney to help a real client, not end up in a recycling bin.”).

158. E-mail from Ricks, *supra* note 152.

159. *Id.* (“This is not a lecture course—it requires [students’] active participation and engagement.”)

ethical questions, and also “questions about the role of the lawyer in social change and policy development.”¹⁶⁰ Students are assigned selected critical academic readings for class discussion, similar to the course at American University of Law.¹⁶¹ However, participating students must also complete two “case study” assignments in which they conduct fieldwork and in-depth research of important, high-impact public interest cases.¹⁶² To complete the assignment, student groups work together to create a paper and an in-class presentation regarding “the nature of the controversy from which the case arose, the issues faced by the litigants and lawyers, the impact of the case decision on the litigants and the lawyers, and finally, the impact the case has had on the public since its decision.”¹⁶³ Students are encouraged to creatively present their knowledge and mastery of the case and its context by incorporating videos, speakers, and presentations.¹⁶⁴ They are also expected to speak to one or more of the attorneys involved in the litigation of their assigned cases.¹⁶⁵

Georgetown University Law Center’s Advocacy Tools for the 21st Century Public Interest Lawyer class, “is designed for students embarking on careers in public interest law or policy and explores the many necessary techniques to become highly effective advocates for social change.”¹⁶⁶ Two public interest

160. Ronald W. Staudt, *Public Interest Law & Policy: Fall 2008 Student Work*, CHICAGO-KENT C.L., <http://www.kentlaw.edu/faculty/rstaudt/classes/2008PublicInterestLaw/students07.htm> (last visited Oct. 12, 2012).

161. Ronald W. Staudt, *Public Interest Law & Policy: Assignments*, CHICAGO-KENT C.L., <http://www.kentlaw.edu/faculty/rstaudt/classes/2009PublicInterestLaw/assignments.htm> (last visited Oct. 12, 2012).

162. *Id.*; Case Study Assignment Memo from Prof. Carolyn Shapiro, (Spring 2012) (on file with author).

163. Ronald W. Staudt, *Public Interest Law & Policy: Fall 2009 Student Work*, CHICAGO-KENT C.L., <http://www.kentlaw.edu/faculty/rstaudt/classes/2009PublicInterestLaw/students07.htm> (last visited Oct. 12, 2013).

164. Students are encouraged to “use PowerPoint, show materials from the internet, play clips of interviews [they] have conducted, . . . [and] bring in guest speakers,” as well as any other relevant materials. Case Study Assignment Memo from Prof. Carolyn Shapiro, (Spring 2012) (on file with author).

165. *Id.*

166. *Curriculum Guide, Advocacy Tools for the 21st Century Public Interest Lawyer*, Georgetown L., http://apps.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=

lawyers, Mary Bissell, child and family policy expert and founding partner of ChildFocus,¹⁶⁷ and Jessica Rosenbaum, executive director of D.C. Access to Justice Commission,¹⁶⁸ teach the course. Bissell and Rosenbaum bring their many years of public interest lawyering experience combined with their understanding of the need to teach nontraditional lawyering skills to students interested in public interest careers. The two, who first met while working as Legal Aid lawyers, are now not only experienced attorneys, but have also been working for years to fill in some of the gaps left by traditional legal education.¹⁶⁹ In 2003, Rosenbaum started a mentoring program for new social justice lawyers in D.C. Not only did the program match new public interest lawyers with experienced ones, but through regular brown bag lunch meetings, it also addressed skills and issues not regularly taught in law school, such as applying a variety of advocacy tools to your case/cause, media training, and fundraising.¹⁷⁰ According to Bissell, it took four years to get Georgetown (her alma mater) to accept the course but her “bitterness about what she didn’t learn in law school,” drove her to keep asking.¹⁷¹ Using readings, discussions, simulated exercises and guest speakers, the course at Georgetown, teaches some basics in “media relations, fundraising basics, legislative advocacy and lobbying, leveraging data and research, social marketing and public opinion, and cutting-edge digital strategies . . . students . . . have the opportunity to use multiple advocacy tools to tackle real-life social problems on the local and national levels.”¹⁷² In addition to class participation, students are graded on several simulated exercises including: “legislative leave behind,” (a short document left after a lobbying session), “three minutes of fame” (an on-camera videotaped interview with the press), a coalition building exercise, and a final paper assignment that addresses the various advocacy tools and techniques

1785 (last visited Oct. 12, 2013)

167. *Mary Bissell*, CHILD FOCUS, <http://childfocuspartners.com/who-we-are/team/mary-bissell/> (last visited Oct. 13, 2013).

168. *Staff Directory*, D.C. ACCESS TO JUST., <http://www.dcaccessjustice.org/staff> (last visited Oct. 13, 2013).

169. Interview with Mary Bissell, Founding Partner of Child Focus (June 20, 2013) (notes on file with author).

170. *Id.*

171. *Id.*

172. *Curriculum Guide, Advocacy Tools for the 21st Century Public Interest Lawyer*, *supra* note 166.

students can use to best help their client.¹⁷³

Harvard Summer Theory Institute (HSTI) also employs pedagogy that bridges theory and practice but does so in a completely different way.¹⁷⁴ The HSTI fosters weekly discussions by students of “social theory in the context of their day-to-day experiences working for social change through law” as they work in public interest positions in New York City.¹⁷⁵ The participants meet in facilitator-led discussion groups to draw connections between theory and practice and to support their long-term dedication to public interest lawyering.¹⁷⁶ Students participating in the program complete assigned academic readings that aid in drawing connections to their own experiences practicing public interest law.¹⁷⁷

The HSTI has recently expanded its program with the creation of a Theory-Practice Colloquium. The colloquium is an academic-year-long workshop that “[aims] to expose students not just to the method of critique through theory, but also to areas of public interest law” that fall outside traditional legal coursework.¹⁷⁸ Through this lens, students participating in the HSTI have the potential to reflect critically on the transformations of their identities and worldviews by engaging in “real world” practice followed by student-centered discussion of relevant theory.¹⁷⁹

Finally, my semester-long seminar course at Lewis & Clark Law School, Public Interest Lawyering: Theory and Practice, combines many of the elements from the courses discussed above, such as skills-based writing and oral assignments, academic readings, class discussions, and presentations by public interest

173. Interview with Bissell, *supra* note 169.

174. Nisha Agarwal et al., Bridging Theory and Practice in the Education of Future Public Interest Lawyers, (Oct. 15-16, 2010) (Proposal for the Future Ed Conference at Harvard Law School) available at http://www.nyls.edu/institute_for_information_law_and_policy/wp-content/uploads/sites/139/2013/07/Agarwal_Simonson_Hoffman_Merrill.pdf.

175. *Id.* at 1.

176. *Id.* at 2.

177. *Id.* at 3. (“By combining theoretical analysis with reflections on students’ practical experiences, the Institute’s theory-practice method allows students to engage meaningfully with the methods of pursuing justice that they learn in their experiential environments.”)

178. *Id.* at 4.

179. See Agarwal, *supra* note 174.

professionals.¹⁸⁰ The course addresses both the “theory and practice of public interest work . . . to develop some of the basic skills needed to conduct a public interest law practice.”¹⁸¹ It also covers “the history and various models of public interest lawyering and ethical issues confronting lawyers in this area.”¹⁸²

While it is impossible to cover everything a future public interest lawyer needs to learn in one course, my objectives in the social justice context are to: (1) provide practice in a few traditional legal skills with significant feedback from class assignments; (2) teach the important role of fundraising and the media in public interest practice, along with some related skills for both; (3) explore the history and development of public interest lawyering—its diverse advocacy strategies, its various service models, and its complicated client relationships; (4) consider through case studies and fact patterns some of the most common ethical dilemmas that arise in public interest practice; (5) encourage students to problem solve and engage in social justice entrepreneurship; and (6) create a community for students to openly discuss social justice issues along with their hopes, goals, joys, and fears about public interest lawyering as a career. All of this is accomplished through short lectures, discussions, collaborative projects and exercises, guest speakers, and student presentations.¹⁸³

The semester is divided into two halves. The first half is dedicated to academic readings and discussions combined with in-class exercises that focus on universal themes confronting public

180. *Law Course Catalog: Public Interest Lawyering: Theory and Practice Seminar*, LEWIS & CLARK L. SCH., http://law.lclark.edu/courses/catalog/law_425.php (last visited Oct. 13, 2013) (“Students will learn about various models of public interest lawyering and ethical issues confronting lawyers in this area, as well as hear from several speakers practicing in different areas of public interest law. They will learn how to draft various documents essential to a public interest practice, both in a litigation (affidavit, motion) and a non-litigation (press release, fundraising proposal) context.”).

181. Class Syllabus, *Public Interest Lawyering: Theory & Practice Seminar* (Fall 2012) (on file with author).

182. *Id.*

183. *Id.*

interest lawyers.¹⁸⁴

These themes include: the lawyer-client relationship, client voice, competing delivery service models, legal ethics, and historical accounts of public interest movements.¹⁸⁵ Most of the students in the class already have some background in public interest work; therefore, class discussions and exercises allow them to contribute their own experiences, challenges, and opinions to the larger classroom conversation. Interestingly, for most of my students, this is the first time they have had an opportunity to engage with others on most of these issues outside casual conversation. As one of my student's explains:

[The class] gave me greater exposure to the various routes a public interest attorney can go (many I did not know about). In class we learned about different approaches to public interest lawyering by examining the various models of advocacy, and how to better represent our clients while also keeping an eye on the larger mission at hand, whether it be combating poverty, winning a case, or furthering a cause. The [readings and discussions] were not only educational but also therapeutic and created community, since many of us who plan to go into this line of work, realize that although it is rewarding, it is also difficult. We also addressed the pros and cons of the work, and shared personal stories of successes and hardships we have encountered, and how to combat burnout and maintain positivity in the face of adversity.¹⁸⁶

Additionally, my students work on assignments geared towards practicing traditional lawyering skills such as preparing client affidavits (after conducting a simulated client interview), writing a persuasive memorandum in support of this client, and writing a letter to the client.¹⁸⁷ I provide significant oral and written feedback on each of these assignments. They are each

184. Class syllabus, *supra* note 181.

185. *Id.*

186. E-mail from Shirin Khosravi, Lewis & Clark Law Student, to author (February 18, 2013) (on file with author).

187. *Id.*

discussed in class and some are peer reviewed as well. At the end of the first half of the semester, students must apply Oregon's Rules of Professional Conduct to assigned hypotheticals that focus on ethical issues most often encountered by public interest lawyers such as confidentiality, conflicts of interest between clients and the broader community/social justice movement, and special problems in organizational, class, and group representation.¹⁸⁸ My hope is that by end of the first half of the semester, students will have honed their traditional legal skills and gained more of an awareness of the various roles, skills and ethical challenges that face public interest lawyers. As such, they will better understand their own relationship to the larger public interest movement. Along the way, they create community and dialogue about social justice issues and strategies.

The second half of the semester builds upon the subject matters and assignments presented in the first half of the semester, while focusing on learning about and practicing some non-traditional skills necessary in a public interest practice.¹⁸⁹ Students (in pairs) create their own fictional non-profit organizations,¹⁹⁰ and as lawyers for these organizations, they are assigned three projects: a media strategy and press release; a fundraising proposal; and an oral presentation to the board of directors of their simulated organization. Students also read about and discuss career options and the realities of life as a public interest lawyer. My goal during this part of the semester is to push students to be creative entrepreneurs as well as attorneys. I encourage students to develop ideas and strategies that could be applied to their "dream" public interest organizations. In this way, they not only begin to learn the different ways lawyers can be effective advocates, but also learn how to apply problem-solving skills to legal issues.

One of the highlights of the class for both the students and me is to learn about the organizations, campaigns, and projects they have created through these non-traditional assignments. Students regularly come up with organizations that address real needs that are not currently being met. For example, students have developed organizations that provide legal representation,

188. Class Syllabus, *supra* note 181; Assignment, Public Interest Hypotheticals, (Fall 2012) (on file with author).

189. Class Syllabus, *supra* note 181.

190. *Id.*

counseling services, and education opportunities to veterans, sexual trafficking victims, and recent parolees. They have created social media campaigns to raise funds and educate the public about health issues in Native American communities and about the need to educate immigrant women in jobs skills and language. Based on their projects, they have written detailed letters of intent and proposals to foundations to fund their efforts and press releases and media strategies to market them. Finally, they have created budgets, timelines, materials, videos, Facebook pages, twitter accounts, and websites for their organizations. The amount of creativity, thought, detail, and time students spend beyond what is necessary to fulfill the requirements of the graded assignments is impressive. As one of my students has explained,

The class exercises taught me the basic skills needed to start a PIL nonprofit, from how to raise money, how to strategically plan out the organization's action, how to work with a board of directors, etc. This made me realize that although starting a nonprofit is a lot of work, it's something I can actually do. What previously seemed like a far-off dream became very real to me. Also, it caused me to realize that I have the power to start my own project, rather than just trying to [join] someone else's [organization].¹⁹¹

In the last few weeks of the semester, classroom time includes honest discussions on how a public interest lawyering career can affect one's life emotionally and spiritually.¹⁹² As expected, students frequently talk about the lack of jobs, low pay and school debt. However, most students say they expected these challenges when they applied for and began law school. What most students want to discuss in these interchanges are their fears—specifically, whether they can truly effect change in the ways they hoped for when they entered law school. Students are concerned that there may be too many societal problems to fix and whether it is really possible to make a difference. Students are not necessarily looking for answers, but rather for a safe place to discuss these issues with like-minded colleagues. The classroom provides them with that place. Using my own career as an example and with the help of public interest guest

191. E-mail from Kimberly McCullough, Lewis & Clark Law Student, to author (March 3, 2013, 4:25 PM) (on file with author).

192. Class Syllabus, *supra* note 181.

speakers, I try to describe and share the journey of the public interest lawyer and teach my students that if they “invest some of [their] time and creativity in work to change the world, [they] will find it extremely rewarding.”¹⁹³

V. Conclusion

As law schools across the country debate ways to change or not change their curricula to ensure that students are more prepared for practice and get the most out of their legal education, there is an opportunity to make some important improvements. The changes, which have been discussed in my article, will provide students with an environment where social justice and traditional and non-traditional lawyering skills play a larger role in legal education and are more valued. If we act on this opportunity, we will help to build lawyers who are more intellectually and practically well rounded, more dedicated to public service, and more prepared “to transform and restructure the world and its law to make our world a more just place.”¹⁹⁴

193. Quigley, *supra* note 6, at 15.

194. *Id.* at 13.