

**Work-in-Progress Sessions**

**Monday, May 1, 2006**

**4:00 – 5:30 p.m.**

**Session 1: Access to Justice and Community Voice  
in Poverty Law and Procedure**

Moderator: Kate Kruse, University of Nevada Las Vegas

**Empire East**  
*Second Floor*

*Social Justice and the Burden of Proof in Public Assistance Administrative Hearings*

Lisa Brodoff  
Seattle University School of Law

In this article, Lisa Brodoff examines the administrative hearing system for public assistance recipients and applicants, and asserts that it is the primary social justice system for the poor. She discusses why public assistance appellants are always placed at a significant disadvantage in this system. Brodoff proposes that the best way to even out the inequities in adjudications is to always place the burdens of production and persuasion on the government in these hearings. She argues that policy, efficiency, and fairness require a consistent and heavy burden on the state when it attempts to take away or deny “brutal needs” benefits. Brodoff examines other administrative substantive areas where the burden is placed on the government in hearings, and shows why the policies behind the changed burden in those areas apply with equal force to public benefits hearings. Finally, she suggests ways in which to implement this change.

*“Ain’t No Sunshine”’: Deal Making, Open Meeting Acts, and Community Participation  
in Inner City Redevelopment*

Patience Crowder  
University of Baltimore School of Law

The literature about redevelopment and the resulting displacement of inner city residents is plentiful. Left out of the discourse is any meaningful focus on the public-private relationship between cities, developers, and community. This paper examines the deal making process of inner city redevelopment projects and the cruelly and deliberately deficient mechanisms for community participation. This paper critiques the structure and scope of open meetings acts as these acts apply to redevelopment projects sponsored by cities partnering with private and quasi-public developers. This paper argues that open meeting acts particularly fail in the context of inner city redevelopment and proposes a concept of codified “residents’ rights” to ensure a stronger role for residents in redevelopment.

*“Justice Is Not Cheap”: The Neighborhood Legal Services Program, the War On Poverty and 40 Years of Federal Funding for Legal Services for the Poor*

Brian Gilmore

Howard University School of Law

With its origins in Lyndon Johnson’s “War on Poverty,” the Neighborhood Legal Services Program of Washington D.C. set a standard of relentless legal activity in the 60’s and 70’s that changed housing and consumer laws in the District of Columbia forever and in other jurisdictions as well. Using its numerous groundbreaking cases as a backdrop, this article will attempt to place the program into a proper historical context. In addition, the article will examine many of the unique components of the program – the neighborhood legal office concept, federal funding, and citizen board members. Finally, what lies ahead for such programs?

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**Session 2: Developing the Skills and Access Necessary  
to Meet the Legal Needs of Clients**

**Empire West**  
*Second Floor*

Moderator: Dan Filler, University of Alabama Law School

*Lawyers for Middle-Income Clients: Why and How Do They Sustain Their Practice?*

Ann Juergens  
William Mitchell School of Law

Distribution of legal services across the population continues its skew to the top unabated. Studies documenting lack of access to legal help have found that the middle 60% of households by income have unmet legal needs that are almost as great as those in the bottom 20% by income. Yet the profession cannot seem to address this market failure effectively. This article is based on the Ann's small qualitative study of lawyers in Minnesota who serve primarily middle-income clients. It examines the backgrounds, motivations, sources of clients, sources of satisfaction, incomes, use of technology, types of practice, and other salient factors in a sample of lawyers who make their livings serving mostly middle-income households and businesses.

*Serving the Poor: Generalists Needed*

JoNel Newman  
University of Miami School of Law

Contrary to the well-documented trend toward specialization in law, this article will argue that there is a real need for generalist legal training in law schools in general and legal clinics in particular. General legal services and advice are extremely important for the poor and marginalized communities that are often served by legal services offices and law school clinics simply because such offices are often the only point of contact the clients will have with *any* provider of legal services. This article will identify and discuss the impediments to client access to specialized legal services and the unique challenges and rewards of offering more general legal services both in a legal services setting and pedagogically. The article will also argue that generalized training is of benefit to law students who go into private practice after graduation because it conditions lawyers to think more broadly in addressing their clients' needs.

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**Session 3: The Ethical and Lawmaking Dimensions of Particularized Litigants and Legal Profession Institutions**      **Central Park East  
Second Floor**

Moderator: Michael Pinard, University of Maryland School of Law

*Speaking Truth to Power: Law Schools and Law Faculty as Constitutional Litigants*

Maureen Armour  
Southern Methodist University School of Law

Maureen Armour examines the recent role of Law Schools and Law Faculty as constitutional litigants. This particular project grows out of Maureen's larger project, an examination of constitutional debate as a form of democratic dialogue, an analysis informed by the works of political theorists who examine the importance of dialogue and political speech in democracies. Professor Armour argues that Law Schools and Law Faculty as participants in constitutional litigation, especially litigation concerning issues of legal education and the training of lawyers, are unique litigants and assume a special role in front of the Court. The political, ethical, institutional and professional dimensions of this role are explored. The project seeks to answer two questions: Whether these litigants enrich the constitutional and political debate generated by this type of litigation? And whether these actors have a unique moral obligation to engage in this type of public constitutional debate?

*Evaluation of Defense Counsel Performance in Criminal Cases*

Robert Rigg  
Drake Law School

Courts are using ABA standards to determine ethical boundaries and as a means to measure lawyer performance in a number of criminal cases. However, the drafters of these standards intended them to be used as a guide to professional conduct and performance. The drafters did not intend these standards to be used as criteria for the judicial evaluation of alleged prosecutorial or defense counsel misconduct to determine the validity of a conviction. This practice was not envisioned by the drafters of the standards. Both the current prosecution standards and defense standards begin with an admonition by the drafters:

This article critiques the Supreme Court's and, consequently, the lower courts' reliance on these ABA standards as "guidelines" to evaluate counsel's performance.

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**Session 4: Broadening The Understanding of Difference:  
The Impact of Class, Age and Immigration Status and the  
Subconscious on Student Learning and Client Representation**

**Central Park West  
Second Floor**

Moderator: Elizabeth Cooper, Fordham University School of Law

*Cross-Cultural Lawyering by the Book:*

*A Review of Recent Clinical Texts and Agenda for Inquiry – A Scholarly Work-in-Progress*

Ascanio Piomelli

University of California – Hastings College of the Law

This Essay explores how three recent clinical textbooks on interviewing and counseling prepare student-lawyers to work with clients from whom they culturally differ, noting differences in how broadly or narrowly the texts define culture, how they describe dimensions along which cultures differ, and on which side of the lawyer-client relationship they focus. It also suggests that the texts and cross-cultural lawyering literature generally might profitably pay greater attention to: socioeconomic class and its cultural manifestations; the latest studies on social cognition and sub-conscious bias; and the impact of lawyers' professional socialization on our expectations of low-income, working-class, and of-color clients.

*A Critical Look at Immigration Law's Treatment of Children – A Curricular Work-in-Progress*

Ragnini Shah

Columbia Law School

I am in the process of developing an immigration clinic that focuses on immigration benefits available to young people who are self-petitioning both affirmatively and in defense of their deportation. More specifically, the clinic will focus on Special Immigrant Juvenile Status, which is available to young people who have been abused, neglected, or abandoned by their parents. I am in the process of developing the curriculum for the seminar portion of the clinic and am looking to develop mechanisms and methodologies to prepare students for the challenges of interviewing young people about traumatic situations, working with other players in the young person's life, and arguing in Family and Immigration Courts.