

**ASSOCIATION OF AMERICAN LAW
SCHOOLS**

EQUAL JUSTICE PROJECT

REPORT

**PURSUING EQUAL JUSTICE:
LAW SCHOOLS AND THE PROVISION
OF LEGAL SERVICES**

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*Supported by a grant from the
Program on Law & Society of the
Open Society Institute*

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March 2002

This Project was made possible by a grant from the Program on Law and Society of the Open Society Institute. The members of the Project's Steering Committee gratefully acknowledge the pivotal contributions of the organizers of the nineteen Equal Justice Colloquia that formed the centerpiece of this endeavor. Many other law teachers, and members of the equal justice community nationwide—too numerous to name—gave energy and insight to the Project. The coursework, scholarship, and projects cited in this Report represent only part of the mosaic of equal justice work being done in American law schools. These were selected for their representative nature. Many other worthy examples emerged at the various Colloquia. The summaries of the nineteen Colloquia, which are attached to this Report, contain discussions of numerous other outstanding examples of the teaching, scholarship, and service.

AALS EQUAL JUSTICE PROJECT STEERING COMMITTEE

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I. INTRODUCTION

The Equal Justice Project of the Association of American Law Schools was created to explore the complex of roles that legal education can play in confronting a deep-seated issue of law and democracy. This issue is the severe maldistribution of legal resources adversely affecting people and communities faced with immediate legal issues. The litany is ever-growing: persons in capital cases, individuals asserting claims of innocence in the noncapital criminal system, juveniles facing delinquency charges, immigrants seeking asylum, children needing special education, communities grappling with environmental harms, and poor people with health, housing, and income maintenance needs. These are some of the most prominent groups who are all subjected to the travails of a legal system that does not provide competent representation in any systematic fashion.

Funded by a grant from the Program on Law and Society of the Open Society Institute, the AALS created the Equal Justice Project in December, 1999. Conceived by Professor Elliott Milstein of American University, Washington College of Law, who served as AALS President during 2000-01, the Project was named “Pursuing Equal Justice: Law Schools and the Provision of Legal Services.” The Project was directed by Professor Dean Hill Rivkin of the University of Tennessee, College of Law (drivkin@utk.edu) and guided by a six member Steering Committee composed of Professors Alicia Alvarez (Depaul) (aalvarez@wppost.depaul.edu), Bill Hing (UC Davis) (bhing@ucdavis.edu), Minna Kotkin (Brooklyn) (mkotkin@brooklaw.edu), Mary Helen McNeal (Montana) (mcneal@selway.umt.edu), Brenda Smith (American) (bvsmith@ucl.american.edu), and Randolph Stone (University of Chicago) (snar@midway.uchicago.edu).

The centerpiece of the Project was a series of 19 Equal Justice Colloquia convened at law schools across the nation during the 2000-01 academic year. Each Colloquium was organized by a local planning committee. The primary aim of the Colloquia Series was to explore ways that law schools could become more effectively involved in the host of equal justice issues that confront the country today. The Colloquia drew approximately 2000 attendees from a broad spectrum

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of law schools and from the equal justice communities in the local region of each Colloquium.

Section II of this Report first will discuss the historical context of the Equal Justice Project, what animated its concerns, and the events that led to this unprecedented national collaboration. Section III will delve into the ideas that emerged from the Colloquia Series. Section IV through VI of the Report will recount promising developments and potential pathways for further work in the areas of teaching, scholarship, and service. Section VII evaluates the opportunities and constraints facing law schools. Section VIII concludes this Report with tentative ideas on the creation of a permanent network of law schools and faculty dedicated to the promotion of equal justice work.

II. BACKGROUND AND HISTORY OF THE AALS EQUAL JUSTICE PROJECT

A. Equal Justice and Legal Inequality

The AALS Equal Justice Project defined the concept of equal justice in expansive terms. At its core, the problem of unequal justice is rooted in the often unaffordable and generally poor quality of representation for the nation's poor and working class people. Central concerns were both ensuring fair legal and nonlegal processes and just results. The Project eschewed the term "access to justice" in its planning literature in the belief that access to the legal system, though critical to many when meaningful, did not capture the full range of legal inequality that affects people and communities, both inside and on the margins of the numerous corners of our legal system. By using the more capacious, though less precise, concept of equal justice, the Project hoped to stimulate discussions and ideas both about procedural and substantive conceptions of equal justice.

On a broad scale, the Project recognized that problems facing disempowered people could not be resolved solely through the provision of legal services. A more multi-faceted approach to legal inequality needs to be developed. These approaches, such as law and organizing or community legal education, require the development of new sets of advocacy skills for lawyers and advocates. Global strategies that affect our domestic well-being in many, often inchoate ways, need to be incorporated in the education arsenal for future lawyers. The Project aspired to survey the approaches being developed in this fast-developing realm as well.

Why should these issues be of central concern to law schools? The simple answer is that issues of legal inequality profoundly affect the fabric of our democracy. If they are treated as peripheral concerns by law schools, the legal academy is shirking responsibilities that it espouses to embrace. In collaboration with the bar, the bench, and the community, law schools have a vital role to play in explicating the nature of the problems and generating approaches for their resolution. As this brief description shows, the Equal Justice Project sought to work at many levels.

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B. The Historical Role of Law Schools in Equal Justice Issues

Law schools enjoy a venerable history in promoting equal justice and equal rights. In the modern era, individual faculty members were at the forefront as legal architects of the civil liberties and civil rights movements. Law faculty were also involved in the initial development of burgeoning field of public interest law in the 1970's. The role of law schools in advocacy for the poor is emblematically embodied in the genesis and evolution of clinical legal education.

1. Equal Justice and the Role of Clinical Legal Education

The roots of clinical legal education are grounded in the anti-poverty lawyering of the 1960's and early 1970's. Logically constrained by state student practice rules, law school clinics predominantly represented poor people in a variety of civil and criminal matters. Litigation for individuals was the major focus of clinical legal education in its early years. The pedagogy of clinical legal education emphasized a critical approach to lawyering for social justice. Experiential learning forced students to confront the endemic inequalities that poor people faced in the legal system. Coursework in poverty law and related specialities, such as welfare law, were spin-offs of the clinical movement.

As the value of clinical legal education became recognized by law schools, the bar, the judiciary, and funding sources, including the federal government through its Title IX grant program, law school clinics grew exponentially in the 1980's and 1990's. Clinics remained focused on poverty law issues and formulated increasingly sophisticated educational regimes to accompany live client representation. Balancing the twins missions of service and education, the clinical movement became an institutionalized component of legal education. Today, there is little dispute about the merits of clinical legal education.

With this relative stability, clinicians have seized the opportunity to expand their field. The diversity of legal matters handled by law school clinics is staggering. As part of their educational

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mission, clinics provide vital services to a full spectrum of individuals and groups who could not otherwise afford competent legal representation. Case areas and loads are chosen with a keen eye toward both educational utility and service fulfillment, a balance that is often not easy to strike. Clinical pedagogy has become more sophisticated. Clinical scholarship has burgeoned into thick analyses of previously submerged areas of lawyering, such as the dynamics of lawyer-client relationships, collaborative lawyering, and dispute resolution. Modern clinical scholarship and pedagogy are examining a range of social justice strategies, seeking to understand the multi-dimensional nature of public interest lawyering.

There is little doubt that law school clinics and their faculties and students are the cynosure of legal education's commitment to equal justice. But the AALS Equal Justice project was designed not only to draw on the innovations in the clinical field but also to explore the work of nonclinical faculty in the promotion of equal justice. Marrying the efforts of these communities of scholars and activists would create synergies to reenergize legal education in its complementary missions of teaching, scholarship, and service.

2. Law Schools and Universities as Institutions for Equal Justice Work: Opportunities and Constraints

The Equal Justice Project was borne of the conviction that law schools have a special responsibility to promote equality in the legal system and meaningful access to law and lawyers. This conviction is propelled by recent developments in higher and professional education that acknowledge the University's unique role in promoting education for justice. Many universities have committed to community development partnerships, mobilizing the specialized resources available within the university in collaborative ventures with community organizations struggling to revitalize their neighborhoods or communities. The opportunities for legal work in these partnerships are vast, ranging from transactional advice to innovative approaches to community advocacy.

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At the same time, service learning has been recognized as a legitimate educational enterprise at many universities. Through structured teaching and learning projects, students and teachers have provided invaluable assistance to emerging community groups and individual-based projects. Like clinical legal education, service learning harnesses the power of learning from experience and channeling it to concrete community ends. The public interest horizons of students and faculty are expanded through such intensive work.

As promising as these developments are, serious constraints remain. Although law faculty are evaluated on their performances in three realms—teaching, scholarship, and service—it is widely perceived that the three are not valued equally. Excellence in teaching is universally valued, but the standardized approaches to evaluation of teaching rarely include the extraordinary demands of teaching advocacy-based or community-centered courses. Tenure standards for clinical educators have been developed at many schools, but the fairness of their implementation remains an issue. Rigid definitions of countable scholarship have often inhibited faculty, usually at the pre-tenure stage, from conducting research on controversial, contested social or political issues or linking their research to the activities of grassroots groups. The third component of the trilogy—service—is often devalued. There are no generally accepted methods for evaluating a faculty member’s service work, and engagement in justice campaigns or consultation with public interest groups often fall under the radar screen at tenure time. These inhibitors to faculty (and student) involvement in equal justice work pose tangible disincentives for faculty members who desire to link theory, passion, and values with useful action.

C. The AALS Equal Justice Project

Ambitious in concept and design, the Equal Justice Project set out to document the array of equal justice activities that exists in American law schools, to highlight the best of this work, to assess it for its

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replicability, and to stimulate law schools to encompass more equal justice work as explicit parts of their missions. Ultimately, the Project seeks to influence law schools to create institutional arrangements that will nurture and encourage more collaborative justice work both within and across institutions and to point the way toward the creation of lasting networks where equal justice work would flourish. The centerpiece of the Project was its Equal Justice Colloquia Series. This initiative, the brainchild of AALS President Elliott Milstein (elliott@wcl.american.edu), galvanized law schools around the country to embrace the mission of the Equal Justice Project.

III. THE AALS EQUAL JUSTICE COLLOQUIA SERIES

A. The Logistics of The Project

When it was originally conceived, the Colloquia Series was centered on a traveling cadre of faculty members with extensive experience in equal justice matters in law schools. As the planning for the Series progressed, the decision was made to invest the bulk of the planning responsibilities in a committee selected by the local organizers of each Colloquium. This key element of local design was to ensure that each Colloquium reflected the interests and on-going activities in a particular locale and to build commitments for further collaboration. Over 50 law schools expressed interest in hosting a Colloquium. The Project budget could only support 19 events. Schools were selected on the basis of a number of factors (e.g., location, diversity of activities, etc.), not the least of which was the school's depth of commitment to equal justice activities and to carry through after the Colloquium was held.

The multiple aims of the Colloquia Series are recited on the Project's website at www.aals.org/equaljustice. They are:

1. To identify models of equal justice teaching, scholarship, and service that can be used in different law school settings with various levels of resources;
2. To stimulate throughout the entire law school—in both clinical and nonclinical courses, library programs, and pro bono projects, among others—cross-cutting interest in and commitment to the provision of legal services to underserved individuals, groups, and communities;
3. To establish formal relationships between law schools and equal justice communities aimed at promoting on-going support for the provision of legal services to underserved individuals, groups, and communities;
4. To encourage collaboration among law schools and their faculties in addressing equal pressing equal justice issues; and

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5. To create sustained commitments to equal justice education, scholarship, and work in law schools on both the national and local levels.

A key ingredient to the long-term success of the Project was the inclusion of members of the equal justice community in the planning and execution of each event. At its first meeting, the Project's Steering Committee met in Washington D.C. with representatives of NLADA, The Center for Law and Social Policy, the Alliance for Justice, the Appleseed Foundation, and NAPIL to gain their views on ensuring inclusive Colloquia. The Project members also communicated with a number of other public interest law organizations and faculty around the country to learn more about the range of activities that might have relevance for inclusion in the Colloquia Series.

When the 19 sites were selected in the spring of 2000, the planning for each Colloquium began in earnest. Each member of the Steering Committee was assigned the responsibility to assist several schools in the accelerated planning process and to ensure, to the extent possible, that each Colloquium would embody a range of topics and speakers. The overall responsibility for each Colloquium was placed with a faculty or key staff member at each host school.

The Colloquia Series was inaugurated on September 21, 2000. The schedule called for nine Colloquia to be held in the fall semester and ten in the winter and spring. At least one member of the Project Steering Committee attended each Colloquium. At many, out-of-town speakers were invited to deliver keynote addresses. The bulk of the speakers at each Colloquium was composed of local or statewide lawyers and advocates from legal services, public defender offices, public interest organizations, community groups, faculty from law schools and other university departments, bar and pro bono leaders, and the judiciary. The different approaches taken by each planning group yielded events rich in information and inspiration.

B. Themes in the Nineteen Equal Justice Colloquia

Members of the Project Steering Committee and Colloquia organizers prepared detailed reports on each of the Colloquia. These reports chronicle the topics, speakers, and outcomes of the various Colloquia. These reports are appended to this Final Report and should be consulted for a full appreciation of the wide scope of ideas that were presented at these events. The present section will highlight some of the general themes that emerged at the Colloquia. Following these themes, this section will highlight selected examples of promising developments in teaching, scholarship, and service that were presented in the Colloquia Series.

First, at virtually each Colloquium, the speakers representing the equal justice community eloquently presented the seriousness and complexities of the problems of legal inequality that pervade the legal system today. These voices from the field recounted the devastating consequences of unequal representation on individuals and groups. These speakers made plain the reality that, in many realms, the legal system does not work for poor and working class people. The depth of this dysfunction is well documented, but the powerful stories that were told at the Colloquia by legal services lawyers, public defenders, public interest lawyers, grassroots leaders, and others educated many from the academic community about the growing gap between the received rhetoric of the legal system and its stark underbelly.

Second, members of the judiciary offered critiques of the legal system that often exceeded in their bluntness the analyses presented by members of the equal justice community. From state Supreme Court Justices to lower court trial judges, there were poignant calls for deep-cutting reforms in legal representation and advocacy. Bar leaders also lamented the systemic failures in funding, competency, and outcomes that characterize representation for poor people and others excluded from meaningful access to the legal system, as it is broadly conceived.

Third, there was near unanimous agreement that law schools can play important roles in addressing the problems of legal inequality. There were persistent calls at the Colloquia for more law school involvement in the emerging efforts to reconstruct a more just legal system. Diverse partnerships and collaborations were envisioned. There

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was genuine belief that law schools, as the gatekeepers to the profession, had both symbolic and substantive responsibilities.

Fourth, the Colloquia, and the Plenary Session at the 2001 AALS Annual Meeting (Professor Conrad Johnson of Columbia Law School developed a website, www.law.columbia.edu/johnson/aals, that contains a review of the Plenary Session and other useful resources and links on equal justice activities in legal education) showcased the remarkable range of individual faculty work that is directed toward equal justice activities and the evolving institutional commitments that exist, both through law school clinical programs and in innovative projects. Through popular education exercises, edited video clips, and live presentations, the Plenary Session reviewed the innovative work of faculty members from across the country who are dedicated to infusing equal justice education into the law school curriculum and programs. Selected examples of this work from both the Colloquia and the Plenary Session are highlighted below. Largely, the teaching, scholarship, and service activities are done by individuals or small collections of faculty. There is an ad hoc feel to them, but it does not depreciate their value. The Project aspired to demonstrate that it is feasible to incorporate equal justice work throughout the curriculum, in areas that have yet to be mined in legal scholarship, and through individual and institutional projects, pro bono and otherwise, that allow faculty and staff to fulfill their professional and personal commitments to public interest and pro bono work.

Fifth, there was an inchoate consensus that law schools could distinguish themselves by concentrating their resources and efforts in encouraging and performing equal justice work. The pendulum of activism among students swings at regular intervals, and those schools that have genuine commitments to equal justice work feel that they can better attract students who aspire to do public interest law work, whether in nonprofit organizations or in the private sector. To assist students and the academic community in learning more about schools' commitments, it was suggested that the ABA and the AALS institute accreditation reporting requirements requesting detailed information on each law school's equal justice activities.

Sixth, there were numerous expressions of approval of the AALS's involvement in this work. The power of the AALS's endorsement of

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activities that often are risky and perceived to be marginal, or are dismissed as politically correct, was appreciated throughout the Colloquia Series. The AALS's backing of this work gave it a legitimacy that cannot be understated. The many deans who spoke at the Colloquia appeared energized by this initiative, as did faculty.

Finally, the many challenges to effective law school involvement in equal justice issues were keenly recognized by Colloquia participants. Barriers to productive collaboration between the legal academy must be sensitively overcome. Important matters such as language, timing, and priority-setting cast the academic community apart from their peers in the equal justice community. A certain quantum of culture clash is inevitable. But at the Colloquia there were thoughtful suggestions for ways that law schools could become more effective players in addressing the concerns that they share with the equal justice community. Some of these are presented below in the concrete courses, scholarship, and projects that the Colloquia featured. Others will be discussed in the concluding sections of this Report. In adhering to the traditional categories of teaching, service, and scholarship, this Report keenly recognizes the artificiality of these boundaries. Ideas and work described in one category often spill over into the others. There is a rhapsody to this synthesis that is difficult to capture in a Report of this nature. The presentations and discussions at the Colloquia were better forums for capturing a vision of how law teachers could integrate their personal and professional beliefs, interests, and lives in highly satisfying and productive ways.

IV. PROMISING DEVELOPMENTS IN TEACHING ABOUT EQUAL JUSTICE

The clinical method of instruction in law school courses is one of the singular achievements of the clinical movement. Stimulated by grants from the Council on Legal Education and Professional Responsibility (CLEPR) and the seminal work of early clinical educators, clinicians have evolved a unique instructional methodology. This methodology is experientially based, with complementary simulation instruction. It is deployed predominantly in legal clinics that represent poor people and communities. Its increasing sophistication is proven by the uniformly outstanding articles on clinical pedagogy that have appeared in the *Clinical Law Review* and other publications.

Despite, or perhaps because of, its concentration on skills and values in practice, clinical methodology has yet to infiltrate law school curricula outside of clinics in a major way. Over the years, forward-leaning faculty have attempted to incorporate modules of poverty law material into first year coursework, while others have developed comprehensive courses outside of the clinic. For example, Michael Meltsner (Northeastern) and Philip Schrag (Georgetown) published *Public Interest Advocacy: Materials For Clinical Legal Education* in 1974, a text, based on simulated exercises, that focused on broader issues of advocacy than most clinical texts or courses of the day.

The Colloquia Series included presentations of state-of-the-art coursework and pedagogy that seeks to build on the best of clinical instruction, while developing skills and exploring values more suited to the complex problems of poverty and disempowerment of today. Legal clinics themselves have embraced new subject matters to deepen and enhance their teaching, advocacy, and service missions.

Before describing selected examples of this coursework—no easy task given the number of excellent presentations and the well-worked features of the courses and their methods and materials—a few observations are in order. *First*, law faculty have the power and discretion to create new courses and reconfigure others that break down traditional boundaries that stagnantly encase many course descriptions. The power simply to name a course and include it in the curriculum can elevate the status of neglected subject matters, such as poverty law courses did

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in the 1970's. The challenge to rethink course content and method to reflect the changing subject matters of fields encompassed within the equal justice rubric is even more acute today. For example, labor law today cannot be separated from civil rights law, poverty law, employee benefit law, international business transactions, and other fields that have direct bearing on an understanding of labor-management relationships today. Similarly, courses in poverty law must grapple with health care, domestic violence, transportation, environmental, immigration, and workplace issues, not the traditional menu of these courses. This rethinking is at the forefront of equal justice teaching today.

The creation of brand new courses has also furthered equal justice advocacy work. Domestic violence courses and clinics are prime examples of reworking a traditional legal backwater and infusing it with modern theory and practice. Elizabeth Schneider's (Brooklyn) (eschultz@brooklaw.edu) book, *Battered Women and Feminist Jurisprudence* (2000), recounts the theoretical and pedagogical development of domestic violence courses (and scholarship) and their impact on advocacy. Environmental justice courses are yet another example of how disparate developments in legal advocacy have been channeled synergistically into the traditional law school curriculum. Against this background, the following courses and programs emerged from the Colloquium Series as examples of cutting-edge equal justice teaching:

A. Public Interest Law and Lawyering Courses, Programs, and Materials

1. UCLA Law School's Public Interest Law and Policy Program

This unique program begins by selecting entering students with interests in public interest advocacy. The students in the program take a series of courses involving various aspects of public interest advocacy. The five pedagogical components of the Program include a special lawyering skills section; a workshop on issues in public interest law; a public policy class; and an upper-level writing requirement. Several of these components involve students in projects on issues such as educa-

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tion reform. The students also enjoy a tailored advising and out-of-class educational program. The program also emphasizes innovative practice models and is seeking to create a public interest law “incubator” for students and practitioners interested in public interest advocacy. The faculty members involved include Professors Alison Anderson (UCLA) (anderson@law.ucla.edu), Gary Blasi (UCLA) (blasi@law.ucla.edu), and Richard Abel (UCLA) (abel@law.ucla.edu). For more information on the Program, contact its Administrator, Catherine Mayorkas (mayorkas@mail.law.ucla.edu).

2. International Public Interest Lawyering

Professor Richard Wilson of American University (rwilson@wcl.american.edu) teaches a course on the global dimensions of public interest lawyering. His materials are comprehensive and practice-based. The course is taught in conjunction with AU’s International Human Rights Law Clinic.

3. Individual Courses

Individual faculty are developing courses, sometimes team-taught, on modern American public interest law and lawyering. These include courses taught by Professors James Liebman of Columbia Law School (jliebman@law.columbia.edu), Mary Helen McNeal of the University of Montana Law School (mcneal@selway.umt.edu), and Dean Hill Rivkin (drivkin@utk.edu) and Fran Ansley (ansley@utk.edu) of the University of Tennessee College of Law.

4. Professor Philip Schrag’s (Georgetown University Law Center) (schrag@law.georgetown.edu) presentation at the American University/Howard Law School Colloquium, entitled “A Cycle in the Quest for Equal Justice: Litigation, Lobbying, Scholarship, and the Law School Classroom,” described a course in asylum law in which students performed a range of multi-forum advocacy activities while considering classroom material that unpacked the nature of legal reform.

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B. Community Lawyering And Social and Economic Justice Courses

Outside of clinical programs, a genre of courses is under development in which students work with community organizations on a range of advocacy projects. Fieldwork is supervised by the faculty teaching the course, complemented by class readings, and becomes the centerpiece for course discussion of neglected issues such as the role of lawyers in representing grassroots organizations. Examples include the following:

1. Fordham Law School. Professor Matt Diller (mdiller@law.fordham.edu) and colleagues produced course materials and a video entitled “So Goes A Nation: Materials on Community Lawyering.” These materials introduce students to the skills necessary for community lawyering.
2. The new coursebook by Professors Martha R. Mahoney (Miami) (mmahoney@law.miami.edu), John O. Calmore (University of North Carolina) (jcalmore@email.unc.edu), and Stephanie M. Wildman (Santa Clara) (swildman@scu.edu), entitled *Social Justice: Professionals, Communities, and Law* (West forthcoming), is the first to provide comprehensive materials enabling the study of law and lawyering for social justice. The book examines the organization of the legal profession, the strategies of social justice lawyering, and the ways that lawyers work with communities.
3. Professor Deseriee Kennedy (Kennedy@libra.law.utk.edu) of the University of Tennessee, in her course entitled Race and Gender, develops projects with community groups around issues of local concern, including police brutality and civil rights enforcement.
4. The University of Miami’s Center for Ethics & Public Service, directed by Professor Anthony V. Alfieri (aalfieri@law.miami.edu),

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is an interdisciplinary Project devoted to the values of ethical judgment, professional responsibility, and public service. Among its activities, the Center provides training in ethics and professional values to law students in conjunction with community-based projects.

5. The University of Maryland's Legal Theory and Practice Program involves students in first year classes in advocacy work in the community. During the Colloquium held at American University, Professor Karen Czapanskiy (kczapans@law.umaryland.edu), with her collaborator, Peter Sabonis of Baltimore's Homeless Persons Representation Project, described a welfare case that her first year Civil Procedure class productively worked on during the semester.
6. Professor Pete Salsich (salsichp@slu.edu) of Saint Louis University teaches an interdisciplinary course in which students from schools of law, social work, architecture, and accounting collaborate with community groups to develop affordable housing.
7. Professor Suellyn Scarnecchia (suellyns@umich.edu) of the University of Michigan Law School and Jeanne Charn (charn@law.harvard.edu), Director of Harvard Law School's Hale & Dorr Legal Services Center, teach courses on access to justice and delivery of legal services issues.
8. Professor Louise Trubek (lgrubek@facstaff.wisc.edu) of the University of Wisconsin Law School teaches a course in Innovative Practices. This course is built on her research in collaborative advocacy involving public interest lawyers and advocacy groups.
9. Professors Fran Ansley (ansley@utk.edu) (Tennessee) and Lucie White (lwhite@law.harvard.edu) (Harvard) are developing materials for coursework in Law and Organizing. As Carnegie Foundation Fellows, they are studying the pedagogical underpinnings of community-based advocacy courses.
10. Sponsored by the Minnesota Justice Foundation (www.mnbar.org/mjf/mjfntr1.htm), a consortium of law schools

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and bar organizations, faculty at Minnesota law schools are developing equal justice course materials that will serve as model modules for use in standard first year courses.

11. Professor William P. Quigley (quigley@loyno.edu) (Loyola of New Orleans), the Director of Loyola's Gillis Long Poverty Law Center, teaches courses rooted in community needs. At the Tulane Colloquium, he observed that it is incumbent on faculty and students who work with community organizations to be vigilant about their strategic roles, be humble, "do no harm," and understand that working for social justice is a long-haul process.
12. Professor Maxine Lipeles, Washington University in St. Louis (milipele@wulaw.wustl.edu), teaches the Interdisciplinary Environmental Law Course, in which law students partner with environmental engineering and science students to provide legal and technical services to community groups addressing community health matters such as lead paint poisoning, and pollution from plant emissions, brownfields, and water bodies.

V. PROMISING DEVELOPMENTS IN SCHOLARSHIP ABOUT EQUAL JUSTICE

As demonstrated by the wealth of scholarship contained in the annotated *Equal Justice Bibliography*, which was prepared for circulation at all the Colloquia, equal justice issues have garnered more than passing attention from the legal academy. This is an apt development. The ability of the equal justice community itself to generate its own research has been extremely limited by cut-backs in funding. To the extent that legal academics can produce useful doctrinal scholarship, lawyers and advocates for poor people directly benefit. The legal academy is also uniquely suited to create theoretical foundations for law reform. For example, the constitutional right to counsel for the poor in civil cases, an issue that currently is being litigated in New York courts, is an idea that has been the subject of intermittent scholarly writing for years. These articles lay in wait for the propitious time when such a claim might realistically be made in litigation.

Despite the rise in interest in this field, there remain tangible gaps in the legal literature. There has been a paucity of attention paid to issues involving the delivery of legal services, a critical area that is in great ferment. Although recently a handful of scholars have turned their attention to issues such as the unbundling of legal services (i.e., the handling of discrete tasks for clients, with their consent, short of full service representation), technological developments in enhancing legal representation for the poor, and new concepts in community lawyering (e.g., community prosecuting and defending), very little work has been done on the structural and design elements of legal services delivery systems, on outcome analyses of different regimes of delivery, on the incorporation of nonlawyer advocates into systems of delivery, and on building alliances for social reform. Another area that cries out for reflective, innovative scholarship, both theoretical and empirical, is the examination of blended strategies of advocacy. A few case studies and essays containing textured story-telling have been done, but there has been little intensive, normative scrutiny of progressive legal campaigns. Thus, the lessons from the field are often submerged or lost.

Marina Hsieh (Maryland) (mhsieh@law.umaryland.edu) summed up the pitfalls and possibilities of equal justice scholarship in a talk at

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the American University Colloquium called “The Search For Harmony: Letting Justice Drive Your Scholarly Agenda.” She encouraged law faculty to direct their scholarship to an audience outside the traditional confines of law reviews, such as equal justice practitioners or advocacy groups; to convert briefs that faculty work on in pro bono cases into articles; and to use one’s service on nonprofit boards to generate useful ideas for research. Professor Hsieh skillfully debunked the canard that an academic who is too much of an advocate cannot be viewed as a sound scholar.

At the same Colloquium, Professor Jamin Raskin (American) (raskin@wcl.american.edu) spoke on “Creation, Engagement, and Transformation: Scholarship in Search of Justice.” Observing that legal scholarship “defines who we are,” he wove a compelling tale of how his interest in the issue of the right to vote for noncitizens led to community activism, media attention, op-ed writing, and ultimately a series of law review articles on this important issue of democracy and power.

The Colloquia Series and the Plenary Session at the 2001 AALS Annual Meeting featured several examples of inventive equal justice scholarship. These included the following:

1. Professor James Liebman’s (jliebman@law.columbia.edu) (Columbia) study of systematic errors in death penalty appeals, “A Broken System: Error Rates In Capital Cases, 1973-1995,” which is available at www.law.columbia.edu/johnson/aals, influenced the public debate over the propriety of capital punishment. At the Plenary Session, Professor Liebman reflected on the intellectual and personal challenges that exist when conducting this type of legal scholarship in a charged arena where little empirical work supported the competing claims.
2. Professors Eric Yamamoto (Hawaii), Maggie Chon (Seattle) (mchon@seattleu.edu), Carol Izumi (George Washington) (carol@clinic.nlc.gwu.edu), Jerry Kang (UCLA) (kang@law.ucla.edu), and Frank Wu (Howard) (fwu@law.howard.edu) published *Race, Rights, and Reparations: Law and the Japanese American Internment* (Aspen 2001). This work is a legal/historical account of a significant equal justice cause.

Promising Developments in Scholarship About Equal Justice

3. Professors Loretta Price (Tennessee) (price@libra.law.utk.edu) and Melinda Davis (Tennessee) recently published “Seeds of Change: A Bibliographic Introduction to Law and Organizing,” 26 NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE 615 (2001). This comprehensive survey highlights the need for more interdisciplinary research in this increasingly important arena.
4. At the Northeastern Colloquium, a panel composed of distinguished Northeastern University professors detailed the intimate connections between economic and social inequality and legal inequality. Economist Randy Albelda (*The War on the Poor*), political scientist Barry Bluestone (*The Boston Renaissance*), and sociologist Thomas Shapiro (*Black Wealth/White Wealth*) spoke about inequality in wealth accumulation, barriers to affordable housing, and women and welfare policy, and encouraged lawyers to broaden their perspectives on equal justice strategies.
5. Kelly Teste (Seattle) (ktesty@seattleu.edu), in “Corporate Social Responsibility: Adding Value(s) to Corporate Law: An Agenda for Reform,” 34 GEORGIA LAW REVIEW (2000), writes about the pedagogy of teaching corporate law from an anti-subordination perspective.
6. Ray Cross (Montana) (ray@selway.umt.edu), in “Tribes as Rich Nations,” 79 OREGON LAW REVIEW 893 (2000), describes a law school project on law reform in Indian country.
7. The scholarship of Professor Thomas Mitchell (Wisconsin) (tmitchell@facstaff.wisc.edu) on land claims of African American farmers has informed a grassroots movement to redress this massive loss of land in the south.

This truncated selection points the way to new strands for equal justice scholarship. Combining personal belief, passion, and intellectual integrity, equal justice scholarship provides fulfilling opportunities for synthesizing teaching, scholarship, and service. When grounded in social movements, this scholarship has real potential for affecting change.

VI. PROMISING DEVELOPMENTS IN SERVICE PROMOTING EQUAL JUSTICE

Service, or what some euphemistically have called “applied scholarship,” is an elusive category to document. The Colloquia Series featured numerous examples of clinical programs, pro bono projects, and individual faculty work that promoted equal justice activities locally, statewide, regionally, and nationally. On an individual level, much of the work is done informally, outside the customary law school channels of evaluation. The ad hoc character of this work in no way diminishes its significance. Law faculty, often with students, are performing extraordinary service in alliance with public interest law and grassroots organizations. If anything, the problem is that these endeavors are rarely documented and shared, except in small circles. At the Arkansas Colloquium, Justice Wendall of the Arkansas Supreme Court eloquently noted that, by its very nature, service in this realm is often inherently controversial, a dynamic that may require intra-school conversations about mission and academic freedom. He urged law faculty to “agitate” for justice and be resilient and creative in response to retrenchment in this sphere.

The AALS Pro Bono Project, also funded by a grant from the Program on Law and Society of the Open Society Institute, was a major effort to document and enhance the pro bono activities of law schools, faculty, and students. The accomplishments of the Project can be viewed at www.aals.org/probono. As contrasted with the Equal Justice Project, the Pro Bono Project concentrated on the infrastructure and architecture of service projects in American legal education. Flowing from the Project, the AALS created a Section on Pro Bono and Public Service Opportunities. The activities of this new Section can be viewed on the Pro Bono Project website.

This section will highlight selected service activities that were presented at the various Colloquia. By no means do they constitute a fair review of the multitude of activities that exist. The Equal Justice Project concerned itself primarily with the collaborative nature of service work, the ability of law schools and faculties to form alliances with members of the equal justice community, and the substantive content and pedagogical possibilities inherent in service activities. Examples include the following:

EQUAL JUSTICE PROJECT

1. The Law School Consortium Project **(www.lawschoolconsortium.net)**

This ambitious enterprise, based at CUNY Law School, the University of Maryland Law School, and Northeastern Law School created Community Legal Resource Networks, conjoining the law schools with community-based solo and small firm practitioners who serve poor and working class clients in fields such as immigration, domestic violence, and community economic development. The lessons learned from the Consortium Project, which are recounted on its website, show the pitfalls and possibilities of law school involvement in supporting and promoting private practitioners who are seeking to build and maintain law practices rooted in their respective communities.

2. The Innocence Project **(www.cardozo.yu.edu/innocence_project)**

This Project provides intensive legal assistance to individuals with claims of unjust conviction. The Project, and its counterpart at Northwestern University Law School, have spawned law school Innocence Project groups throughout the United States. These Projects are often directed by law school faculty and members of the criminal defense community and involve students in fact-finding and research on chosen cases. The replicability of Innocence Projects, and the back-up and training provided by the staff of the Innocence Project, make this service vehicle a model for other collaborative equal justice endeavors.

3. University of Michigan Law School Poverty Law Program (Professor Suellyn Scarnecchia) **(suellyns@umich.edu)**

This program, which is centered in the UM Clinic, is a cooperative venture between the Law School and a collection of Michigan legal services programs. Organized around the statutory restrictions imposed on LSC funded legal services

Promising Developments in Service Promoting Equal Justice

programs, the Program is funded by the Law School, by University “outreach” money, and by the state Bar Foundation. The program provides technological support, engages in litigation, and provides training.

4. The “Lawyering in the Digital Age Clinic” at Columbia Law School

(www.law.columbia.edu/johnson/aals/ldadesc/)

This clinic is pioneering efforts to understand the transformative impact of technology on the practice of law in the public interest realm. Through a combination of classroom teaching and hands-on experience, students learn about technology and acquire lawyering skills while working on real cases with public interest lawyers in the New York area. A conscious by-product of this course is to assist people working in public interest law offices to leverage technology for the benefit of their clients.

5. Equal Justice Centers

The University of California at Berkeley, Santa Clara Law School, and the University of Seattle have created Centers designed to stimulate and coordinate equal justice activities in their respective schools and communities. As detailed in the Report of the AALS Pro Bono Project, a number of other law schools maintain public interest/public service programs whose responsibilities include pro bono development, career assistance, and educational programming.

6. The Minnesota Justice Foundation

This Project, which has an office in each of Minnesota’s law schools, serves as a clearinghouse for law student volunteer activities in Minnesota’s legal services programs. Funded by contributions from law schools and independent sources, the Foundation is also coordinating a project to develop poverty law materials for first year classes. Professor Steve Befort

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(befor001@tc.umn.edu) of the University of Minnesota is heading this effort.

7. Law Schools and Legal Services Programs

There are a host of connections among law schools and legal service programs. Law school faculty and deans, for example, are integrally involved in the civil justice planning process directed by the federal Legal Services Corporation in many states. For example, Deans Katherine Broderick (sbroderick@law.udc.edu) of D.C. Law School, Thomas Galligan (galligan@libra.law.utk.edu) of the University of Tennessee Law School, Frank Newton (f.newton@ttu.edu) of Texas Tech Law School, and Steven Steinglass (stevensteinglass@law.scuohio.edu) of Cleveland State Law School are actively involved with the legal services and equal justice communities in formulating effective statewide delivery systems for civil cases. There is also frequent collaboration among clinical faculty and legal services providers in advocacy work. Pace University School of Law (Professor Vanessa Merton) organizes regular events for area legal services programs substantive subjects. The Brennan Center at NYU Law School (www.brennancenter.org) is a valuable source of national information on legal services activities.

8. Harvard Law School's Hale & Dorr Legal Services Center

The center operates a full-scale legal services program in the Jamaica Plains section of Boston. Through targeted advocacy, the Center handles a cross-cutting menu of individual and law reform cases and engages in creative community development work.

VII. PROMOTING EQUAL JUSTICE IN AMERICAN LAW SCHOOLS

In crafting the Equal Justice Project, the organizers were animated by twin convictions. One was that law schools and law faculty have professional responsibilities to promote equal justice work in their teaching, scholarship, and service. The other was that, despite the many ad hoc efforts that exist, law schools (and universities) can contribute more in this cause, both in the short term and in the future.

The many inspirational speakers at the Colloquia—from the bench, bar, and community—exhorted law schools to extend themselves in this enterprise. Lawyers and advocates in the field consistently envisioned the potential for enhancing their work through collaborative activities with law schools. For this work to be meaningful and lasting, however, important barriers must be overcome.

Two critical barriers are language and timing. To academics, the language of advocacy, as contrasted with the language of academia, often seems one-sided, myopic, and overly functional. Academics pride themselves on multi-dimensional discourse. Bridging the two is a task that requires skillful translators. The nature of the work done by clinical legal educators strategically positions them between these worlds. At their best, clinicians strive both to incorporate abstract ideas into actual practice and to extract theories about lawyering and reform from practice. They are often in positions to convert requests from equal justice lawyers into concrete projects for their willing colleagues.

Timing is an even more formidable barrier. Legal work often demands short deadlines and concentrated work. The timing of academic work often conflicts with such demands. Timing is an issue that must be carefully considered when law schools enter into projects with equal justice advocates.

Perhaps the greatest barrier to collective action is a lack of understanding of the nature of effective collaboration. As Professor Jerry Lopez (lopezg@juris.nyu.edu) of NYU Law School observed in several Colloquia presentations, simply getting people together is not enough to ensure that genuine responsive alliances will be formed. Law schools need nerve centers to sustain this work and to create the

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synergies that are possible, but have a tough time overcoming inertia. The lethargic changes in law school curricula are an example of this problem. For law schools to become true community law centers, where the entire institution embraces an equal justice mission as co-equal with other aims, it will be critical for law schools to shed their risk averseness, marshal their full range of resources (including drawing on the often substantial resources of their universities), and demonstrate passion for a more democratic legal system.

As the Colloquia Project has shown, there are law schools that have synthesized many of these ingredients. At these schools, administrators have raised resources for equal justice efforts, making them a priority. Faculty have consciously insinuated themselves into their communities, learning as well as contributing. Faculty with specialities have constructed Web pages for use by advocates, while others have created listservs to generate real time interchange among communities of advocates. This work is connected, grounded, and self-generating. The knowledge about law, lawyering, legal and social institutions, human and political dynamics, and a host of other areas central to an understanding of law that can be gained from this work has the potential to change outdated categories and to contribute to positive changes in education for justice.

This should not be seen as an overly daunting agenda. Twenty-five years ago, clinical legal education was viewed in a similar light. Few could have predicted its present-day vitality. Through organizing, educating, experimenting, proselytizing, and producing, clinicians created a new field of study. The potential exists for a similar breakthrough, one with academic integrity and activist results. As the Equal Justice Project has illustrated, the strands and the desire are in place. How can this movement progress?

VIII. ENHANCING EQUAL JUSTICE WORK IN AMERICAN LEGAL EDUCATION: DIRECTIONS AND RECOMMENDATIONS FOR MORE MEANINGFUL ENGAGEMENT

The creation of more permanent networks composed of schools, faculty members, students, equal justice organizations, and communities would energize legal education and open up new opportunities in teaching, scholarship, and service. These networks can function at many levels—national, state, and local. They can coalesce around concerns and causes of national import or focus on grassroots work in local communities. They can forge new pedagogy, spawn path-breaking scholarship, and provide services to individuals and groups. They can share ideas, theories, and strategies with each other in unprecedented forms of collaboration. The potential for reforming the legal system is real. The challenge is formidable.

Given the decentralized character of American legal education, creating permanent national or regional networks to further the work of the Equal Justice Project will require hard thinking and committed action. The AALS, a membership organization with a modest staff, is not equipped fully to sustain this effort on its own. The Society of American Law Teachers (SALT), a progressive organization of law teachers that, among other socially conscious activities, has sponsored excellent conferences on equal justice subjects, does not have a permanent staff or funding. If this work is to be carried forward to its full-scale potential, infusions of resources to create staffed projects will be necessary.

Short of this goal, more modest approaches should be considered. Any approach should include close alliances with organizations such as NLADA and other public interest law entities. The following represent ideas and proposals that emerged from the Equal Justice Colloquia and the deliberations of the Colloquia organizers:

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A. Enhance AALS's Commitments to Promote Equal Justice Activities Throughout Legal Education

Equal access to justice should be acknowledged as an integral part of the business of law schools. Including this proposition in the AALS statement of core values would elevate equal justice work to the status it deserves. The national presence of the AALS also can be deployed to further the goals and activities of the Equal Justice Project. The following are several steps that the AALS should consider:

1. The Establishment of Equal Justice Fellows

Each year, the AALS should designate at least one interested faculty member as a fellow in the AALS national office. This professor would be charged with the responsibilities of creating and coordinating national activities between law schools and the equal justice community. The fellow should be chosen in an open competition. The AALS should seek funding for this position to ensure that the most qualified people in legal education apply and that the national activities that are contemplated can be fulfilled. The fellow would report to the AALS Executive Director and to the Steering Committee of the Equal Justice Project. The fellow would also work closely with the AALS Pro Bono Project. There are a number of possible projects and activities for the fellow to pursue. These are described in section B below.

2. The Creation of a Permanent Section Within the AALS

Because the bulk of the work of the AALS is carried out through its sections, one of two things should happen: either the creation of a new Section on Equal Justice, or the realignment of existing sections, such as the Section on Pro Bono and Public Service or the Section on Law and Community. This would allow faculty members and administrators with interests in equal justice work to collaborate on programs, newsletters, and other business relevant to this dynamic field. It would en-

Enhancing Equal Justice Work in American Legal Education

sure that there would be a yearly program at the AALS Annual Meeting on topical issues. Through the work of such Sections, a true national network would be formed. Such a network could organize faculty to provide various models of training and continuing education to equal justice practitioners.

3. The Incorporation of Equal Justice Issues in AALS Professional Development Programs

Equal justice issues are cross-cutting, much like issues of professional responsibility. The AALS Professional Development Committee should strive to include sessions and speakers on equal justice issues in each conference and workshop. The Workshop for New Law Teachers would be an ideal setting to introduce new faculty members to this emergent field.

4. The Development of Incentives for Law Schools to Promote Equal Justice Teaching, Scholarship, and Service

There are several clearly marked paths that the AALS can pursue to promote greater equal justice activities. One would be through the AALS accreditation process. Requiring schools to report on their equal justice activities would generate a wealth of comparative data on the activities in this realm. Ultimately, the AALS Accreditation Committee might consider promulgating standards to foster equal justice work. A second would be the creation of an AALS award for significant achievements in equal justice work. A final proposal would be the development of an Equal Justice Corps, similar to the AALS Resource Corps, to assist law schools that desire expert consultation in formulating or expanding their equal justice agendas.

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B. Projects For Promoting Equal Justice Work Should Be Developed Among Law Schools, Equal Justice Organizations, and Local Communities

A number of opportunities emerged from the Colloquia series that deserve serious consideration. Whether or not a structure similar to the one proposed above for the AALS reaches full fruition, there are projects that can be implemented by law schools and their collaborators at the national, regional, and local level that would enrich the cause of equal justice nationwide. Several of these initiatives would be ideally suited for the workload of the AALS Equal Justice Fellow. Others can be carried out by consortia of law schools and faculty. Still others can be undertaken by individual law schools that are serious about their responsibilities in this area. These projects include the following:

1. The Creation of National, Regional, State-wide, or City-wide Consortia to Promote Equal Justice Reform

The need for organizational structures to capitalize on the intense interest in remedying inequality in the provision of legal services was evident in many of the Colloquia. Judges, public interest lawyers, lawyers with a commitment to pro bono work, and grassroots organizations with a focus on justice all viewed law schools as critical central repositories for furthering equal justice reform. To create such organizations and networks will take skilled work on the part of legal educators and administrators. On the national level, the AALS, though the proposed Equal Justice Fellows or its Sections, could play a meaningful role in coordinating with national organizations such as NLADA, NAPIL, the ABA, PSLAWNet and other entities devoted to equal justice work. On the statewide or regional level, organizations, such as the Minnesota Justice Foundation, would be created. To achieve this reality, law school administrators and faculty must be prepared to spend the time necessary to build new, effective institutions. Individual law schools can continue to hold follow-up Equal Justice Colloquia, where the momentum of the inaugural Colloquia is built

Enhancing Equal Justice Work in American Legal Education

on. Individual law schools should be encouraged to establish equal justice committees to promote and coordinate the work of a broad base of faculty, students, and staff in equal justice courses, research, and service. These committees should include constituencies such as librarians, whose skills should be drawn on in this overall effort. The emphasis here is on forming sustaining structures to channel the strong interest that was evidenced during the Equal Justice Project.

2. The Preparation of “State of Equal Justice” Reports

Law schools would serve an important public interest by organizing the creation of reports detailing the status of equal justice concerns in each state. Perhaps working in conjunction with the state judiciary, such reports could examine issues of immediate concern to the equal provision of legal resources in each jurisdiction. Such reports could highlight effective models or legislation and expose practices that are inimical to the fair administration of justice. By working on a team charged with the responsibility for preparing regular reports, students and faculty would benefit from a mission-oriented collaboration with progressive forces in the bench, bar, and community and would generate a host of grounded topics to pursue further in teaching, scholarship, and service.

3. Develop Concrete Vehicles to Assist the Work of the Equal Justice Community

Law school students and faculty are ideally situated to provide timely and cutting-edge information and training to the resource-starved equal justice community in their locales. This can be accomplished in several ways. First, law schools could compile directories of the in-house expertise and interests of its faculty, students, and staff. Similar directories might be compiled by the organizations that comprise the area’s equal justice community. By cataloguing this information, and keeping it updated, the likelihood of effective sharing of information would be sharply increased. Second, faculty and students

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could create targeted webpages, newsletters, or listservs for use by the equal justice community. Again, this would require a measure of communication that should flow from the structural proposals described above. Third, students and faculty could serve as research resources for legal services, public defender, and similar programs. Banks of research memoranda, briefs, etc. could be readily maintained and distributed electronically by the library faculty and staff. Finally, law schools could provide CLE programming pro bono on topics pertinent to the equal justice community. Regular training events for legal services lawyers and public defenders could be organized by interested faculty. Even institutes devoted to the public service bar should be contemplated.

4. Promote Curricular Development

What we do teach in legal education often becomes the canon for what we ought to teach. Experimentation within the law school curriculum, though a tough proposition, is a necessary ingredient for long-term law and institutional reform. To heighten awareness of the importance of equal justice reform, new courses, such as the ones described in this report and presented at the Equal Justice Colloquia, should be encouraged. How to integrate equal justice concerns into the curriculum as a whole requires careful innovation. Such work has already begun. The Minnesota Justice Foundation is sponsoring the development of curricular modules with an emphasis on equal justice issues for first year courses. By demonstrating that the issues raised by these modules are indispensable to a full understanding of a particular subject—whether it be contracts, torts, or procedure—and are not simply feel-good add-ons, a greater balance between the private and public character of the law in the first year curriculum could be achieved.

5. Expand Effort to Enable Students to Develop Careers Serving Under-Served Clients

Through the combined efforts of career planning professionals, pro bono coordinators, and interested faculty, students could be better informed about both existing available jobs serving the disenfranchised and innovative ways they can create their own opportunities to expand access to justice. This can be done within the curriculum by engaging students involved in externships, clinics, and other relevant courses in conversations about paths they can pursue. It can also be done in the context of co-curricular activities, such as special meetings with guest speakers from the equal justice community, trained counselors in career planning offices, work with student organizations, and within the pro bono programs that exist at many law schools. The work of The Consortium Project also demonstrates the advantages to a law school of continuing to provide services to recent graduates doing the type of work that the Equal Justice Project is striving to encourage.

In conclusion, the road to a legal system characterized by procedural and substantive fairness for all its participants is checkered with good intentions and good works. The proposals contained in this Report will require the unselfish efforts of many people to be realized. As this Project has shown, though, there are many people in legal education willing to walk the walk. With the right combination of vision and energy on the national, regional, state, and local levels, what propelled many people into the academy in the first place can be recaptured and redirected to pursuits that make equal justice endeavors the good work that it is.

Respectfully Submitted,
Professor Dean Hill Rivkin, Director
AALS Equal Justice Project
March 2002

APPENDIX:

AALS EQUAL JUSTICE PROJECT:

COLLOQUIA SUMMARIES

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WASHINGTON, D.C. COLLOQUIUM, SEPTEMBER 21-22, 2000
American University and Howard University

Summary Prepared by Brenda Smith, American University

On September 21-22, the American University, Washington College of Law (WCL) in conjunction with Howard University School of Law held the first of the Equal Justice Colloquia. The Colloquium began with dinner and a presentation by Deborah Howard, Director of the Law School Consortium Project (the founder for the AALS Equal Justice Project), "Expanding the law School Education Mission to Support Graduates Serving the Underrepresented." Over 70 faculty, students and local lawyers attended the dinner.

On September 22, 2000 over 150 people attended a day-long conference held at WCL. The conference was organized around three central themes - teaching, service and scholarship. There were two working group meetings that were organized around interest groups, which included:

- ◆ Community Economic Development
- ◆ Criminal Justice
- ◆ Disability
- ◆ Family Law
- ◆ Homelessness/Housing
- ◆ Immigration and Domestic Applications of Human Rights Principles
- ◆ Income Maintenance and Labor/Employment
- ◆ Juvenile Justice
- ◆ Race
- ◆ Women's Rights

Speakers in the plenary included faculty from local law schools including University of Maryland Law School, WCL, University of the District of Columbia, George Washington University Law School, Georgetown University Law Center and Catholic University Law

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School. Professor Michael Tigar of WCL was the luncheon keynote speaker.

The meeting ended with a wrap-up of the key themes of the Colloquium - greater collaboration between law schools and legal services providers; useful scholarship generated from the academy; and the role of law schools in preparing lawyers for work in the public interest.

COLUMBUS, OHIO COLLOQUIUM, OCTOBER 4, 2000
Capital University

Summary Prepared by Dean Hill Rivkin, University of Tennessee

The Capital University Colloquium was attended by approximately 40 people. There were representatives from 6 of the 9 Ohio Law Schools and almost all of the legal services programs in the State. Unfortunately the date conflicted with a major event at OSU Law School, so we missed a number of interested faculty from there.

Dean Hill Rivkin, of the University of Tennessee College of Law and the Project Director for the Equal Justice Project, made the first presentation at the Colloquium. In it, he discussed the goals of the Equal Justice Project and framed the landscapes of unequal representation that characterize both our civil and criminal systems. The numbers speak for themselves. The large number of unmet legal needs of the poor in civil cases; the lack of access to high quality representation in death penalty cases; the gross inadequacy of lawyers for children in juvenile courts, the inability of parents of children with disabilities to find counsel in educational disability cases, the lack of counsel in detention hearings for immigrants, and others. The overall failures in the current legal system—when aggregated—are deep and disturbing. One premise of the Equal Justice Project is that law schools have vital roles to play in finding solutions to these problems.

Suellyn Scarnecchia of Michigan Law School followed with a presentation about the Michigan Poverty Law Program (MPLP), a cooperative venture with Michigan legal services programs. Organized around the restrictions that Congress has placed on LSC programs, MPLP is centered in the clinical program at the Law School. It is funded by the Law School, University “outreach” funding, and the State Bar Foundation. The program provides technological support to selected legal services programs, engages in litigation and legislative advocacy, and provides state-wide and office-wide training. Suellyn teaches a course in “Access to Justice” and, in selected cases, nonclinical faculty will co-counsel with Clinic faculty. Suellyn holds hope that other Michigan law schools, with growing clinical programs, will join the pro-

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gram. She did note that it took time and sensitivity for the two communities to learn each other's language and differential demands.

Next, Deborah Howard, described the Law School Consortium Project, which she directs. The Consortium, which is working with projects at CUNY Law School, Maryland Law School, and Northeastern Law School, seeks to form relationships between law schools and solo and small firm practitioners who engage in social justice work and meet unmet legal needs. The current projects are centered on family law (CUNY), immigration law (CUNY), general practice (CUNY), employment law (CUNY), a demonstration law office (Maryland), domestic violence (Northeastern), and economic development (Northeastern). The Consortium, which is funded by the Open Society Institute (as is our AALS Project), is founded on networks of like-minded practitioners called "Community Legal Resource Networks (CLRNs)." These networks provide, among other services, peer technical assistance, law library support, technology training, and law office management assistance. Deborah stated that CLRNs help build law school support among alums and help meet the legal needs of the poor and near-poor in an era of declining pro bono representation. Deborah also envisioned the need for more formal alliances among CLRNs and legal services and pro bono programs, a sort of web of representation and training. Cleveland Legal Aid's Consumer Task Force was mentioned as a similar, but more limited, effort in which experienced practitioners mentor legal services lawyers and help screen referrals.

Tom Weeks of the Ohio State Legal Services Association spoke next. He discussed the various components of the state planning process in Ohio. These include issues around intake (e.g., hotlines), technology, access to justice (e.g., pro se representation), coordination of training and litigation, private attorney involvement, resource development, and program configuration. Tom noted that, thanks to this process, there is more strategic cohesion in the legal services community, making this a propitious time to involve the nine Ohio law schools in aspects of the process. Tom also listed "next step" to build on the Colloquium. He discussed greater networking through e-mail lists, etc., continuing forums to share ideas and to coordinate interests and efforts, exploration of a model for Ohio similar to the Michigan program, co-counseling cases, greater coordination among law school clin-

Columbus, Ohio Colloquium

ics and legal services programs, especially in the coordination of litigation and other advocacy efforts, greater training programs by law school faculty in areas of special interest, and the creation of model projects involving law schools and their students in the strategic provision of legal services. The discussion around these proposals centered on the need for “local connections” to nurture these efforts. It was suggested that it is important not to overstate the general competence of many faculty in advocacy issues, but that, in areas such as legal ethics, there were faculty resources at each law school. It was also mentioned that grants might be easier to obtain with more broad-based dimensions in the various communities of interest. Someone mentioned that it might be more effective to stimulate more collaboration if local legal services lawyers, rather than directors, met with law school faculties and relevant committees and described in real terms the needs and possibilities for mutual assistance. It was also noted that tapping the overall resources of the universities might prove fruitful in generating experts and knowledge. There was agreement that representatives of the legal services community should attend the Ohio Deans’ meeting in March to follow-up on the discussions at the Colloquium, but that this should not be done at the expense of “local” campaigning.

The final part of the Colloquium consisted of individual accounts of the efforts currently underway, almost exclusively through clinical programs, to participate in equal justice work in Ohio. Dean Hill Rivkin has notes on the presentations that were made by faculty and representatives from Cincinnati, Ohio Northern, Cleveland-Marshall, Capital, Dayton, Case Western Reserve, Ohio State, and Toledo. There is much of interest and possible replicability (e.g., Ohio State’s student pro bono program that supports legal services lawyers in the field). There was consensus that there could be much greater coordination of this diverse work. As you can tell, the Colloquium was a serious, substantive day of conversations about linking resources, stimulating action, and developing new, mutually beneficial relationships. To the extent that the AALS Project can assist, please feel free to Dean Hill Rivkin. Thanks to everyone for their persistence in doing the hard work (and it may get harder) that is necessary to achieve real justice in our legal system and communities.

EQUAL JUSTICE PROJECT
CHICAGO, ILLINOIS COLLOQUIUM, OCTOBER 12-13, 2000
University of Chicago and DePaul University

Summary Prepared by Randolph N. Stone, University of Chicago

Substantively, the program was a success. At Chicago, Professor David Harris (Toledo) gave a thoughtful and provocative keynote address on the possibility for progressive change in the criminal justice system focusing on community policing, racial profiling, capital punishment and the drug wars as areas of positive attitudinal shifts. His address was followed by a reception for the attendees and a dinner in the clinical atrium for members of the planning committee, interested faculty and program participants. These events were sparsely attended with no more than 35 at the speech and 15 at the dinner.

The next day's events started at the Chicago Bar Association with a plenary panel discussion of "legal service providers" outlining their concerns and interests in law school faculties becoming more involved in their work. The discussion was lively and informed with Dean Leroy Pernel (Northern Illinois) responding to the provider concerns from the perspective of a faculty member and Dean. We then adjourned to DePaul and due to the unexpectedly low turnout of around 40, rather than divide into the planned 6 or 7 small groups, we separated into civil (housing discrimination and land tenure) and criminal (juvenile justice, wrongful convictions, racial profiling, post-convictions) sections to discuss models of law school and legal provider collaboration. Diane Downs, Chicago's Assistant Dean and Director of Placement, also coordinated an "equal justice jobs" workgroup session for sharing ideas with career services staff from DePaul, and the Public Interest coordinator from Northwestern University.

Our luncheon speaker, Gerry Lopez (NYU) gave a predictably spirited presentation focused on the need for and methods to effectuate collaboration between practitioners and law teachers in the social justice arena. After lunch, the attendees met together to brainstorm about involving academic faculty in the justice mission and increasing collaboration. Tracey Meares did a fine job of coordinating this process with the goal of creating an action plan which we expect to send for posting on the colloquia website.

Chicago, Illinois Colloquium

In sum, we were favorably impressed with the substance of the colloquium but disappointed by the low turnout. Only a tiny number of non-presenting faculty showed up and the response from the equal justice community was much less than promised. Nonetheless, the core planning committee (Professor Sumi Cho, Professor Tracey Meares and Diane Downs) did a great job of putting together the panels, coordinating the process and trying to generate attendance. Direct mail went out to about 1000 individuals and organizations.

EQUAL JUSTICE PROJECT
KNOXVILLE, TENNESSEE COLLOQUIUM, OCTOBER 12-13, 2000
University of Tennessee

Summary Prepared by Dean Hill Rivkin, University of Tennessee

I'm happy to report that at the Tennessee Colloquium we had over 100 faculty (mostly, though not all, clinical) and public interest lawyers and advocates. The presentations were rich, enthusiastic, and engaging. We could hardly dislodge people from the small group sessions, and the final plenary (on a gorgeous Friday afternoon) was almost as well attended as the morning sessions. We timely tapped into the legal services civil justice planning process (we also had an excellent representation from the criminal defense community, and the seeds of an Innocence Project stoutly sprouted), and had meaningful discussions about the role that law schools could and should play in a state-wide system of delivery of legal services to the poor. Below is a detailed report of the AALS-sponsored Equal Justice Colloquium held at the University of Tennessee College of Law.

The AALS Equal Justice Colloquia series is funded by a grant from the Law and Society Program of the Open Society Institute (OSI). The Planning Committee for the Colloquium was composed of the following individuals:

- ◆ Professor Fran Ansley, University of Tennessee College of Law
- ◆ Professor Doug Blaze, University of Tennessee College of Law
- ◆ Professor Frank Bloch, Vanderbilt Law School
- ◆ Professor Patrick Hardin, University of Tennessee College of Law
- ◆ Neil McBride, Director, Rural Legal Services of Tennessee (Oak Ridge)
- ◆ Russell Overby, Attorney, Tennessee Justice Center (Nashville)
- ◆ Professor Dean Hill Rivkin, University of Tennessee College of Law
- ◆ Professor Eugene Shapiro, University of Memphis Law School
- ◆ Paula Voss, Knox County Public Defender's Office

Knoxville, Tennessee Colloquium

The Colloquium began on the evening of October 12, 2000, with an address by Jennifer Gordon, the founder of the Workplace Project and a recent recipient of a MacArthur Prize Award. The Workplace Project, located on Long Island, New York, is an advocacy center devoted to the legal, economic, and political rights of immigrant workers. The Project is organized to maximize the participation of its “clients.” Jennifer spoke about the intimate connection between economic inequality in the workplace and legal inequality in the courts, the legislature, and in administrative agencies. Her talk was well received by the approximately 50 people who attended. These included law faculty from the University of Tennessee College of Law, Vanderbilt, the University of Memphis, the University of North Carolina, and Appalachian Law School. Lawyers from the community, faculty from other University of Tennessee departments, and students also attended this evening session.

The day-long program on October 13, 2000, was held at the College of Law. Throughout the day, there were approximately 120 participants in attendance at the various sessions. A listing of the addresses and relevant contact information for each of the attendees is attached to this Report.

The Colloquium began with greetings from Dean Tom Galligan of the University of Tennessee College of Law and Professor Dean Hill Rivkin, Director of the AALS Equal Justice Project. Each described the commitments, both of the University of Tennessee College of Law and the AALS, to greater and more effective collaboration between law schools and the equal justice community in the State of Tennessee and beyond.

The first plenary session focused on the issue of legal needs, both civil and criminal. Neil McBride, Director, Rural Legal Services of Tennessee, began by remarking that spending a day talking about equal justice is a rare occasion. He discussed the substantial disparities in access to legal representation by poor people and communities. He illustrated this with an exercise, drawn from the many legal needs studies that have been done nationwide, by stating that of ten thousand people eligible for free legal services, approximately five thousand would have “cases.” He estimated that a legal services lawyer could handle approximately two to three hundred cases per year. In Tennessee, he said

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there are 1.5 million people eligible for legal services. If half of these people had a legal problem, there would be no possible way that all could obtain needed legal representation. He talked about the process of converting need into legal remedies and used the example of children who are having problems with their teeth. He wondered how many low-income parents in this circumstance view this as a problem of Medicaid law. Neil concluded by stating that it was critical to the legal needs of the poor to bring more legal resources to their service and, very importantly, to use more carefully and strategically the resources that already exist.

The next speaker was Mariah Wooten, the Deputy Federal Public Defender in Nashville. She emphasized the need for more substantial defender resources in the criminal system. Mariah said that, even though the Sixth Amendment guarantees the criminally accused the right to counsel, the system does not provide equal justice. Although Mariah stated that her public defender office has a moderate caseload with nine attorneys, two of whom handle capital cases exclusively, this is atypical around the country. She said that most public defender's offices have too many cases, too few lawyers or investigators, and clients who often have difficulty reading, who have health problems, etc. Responding to the theme of the Colloquium, "What Can Law Schools Do?," Mariah listed several directions:

1. Law schools could assist young, committed criminal law practitioners to make their services available to the poor and working class. She stated that firms that have resources are usually unaffordable to most people. She also noted that courts often expect defense lawyers to be in three places at one time, for example, by scheduling jury trials simultaneously.
2. Law schools can help change the law. Mariah used the example of mandatory DNA testing. She stated that law schools could help raise awareness in the community and among lawmakers on issues such as this.
3. Law schools can question and challenge the system as it operates today. Mariah stated that the consequence of unequal resources is that many people do not start on an equal

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playing field in a system that profoundly affects their lives. She also noted that the problem is perhaps even more acute in juvenile courts and smaller counties. Mariah noted that, in Shelby County, for example, attorneys who represent juveniles are employees of the court, an untoward situation.

The final speaker was Gordon Bonnyman of the Tennessee Justice Center (TJC) in Nashville. Gordon stated that the challenge of equal justice is to keep a perspective on the progress that has been made, while keeping an intense indignation about current inequality. He used as an example the case of *Lacky v. Nashville Bar Association*, litigation from the 1940s. He said that Lacky was a young lawyer who was “charged” with representing “colored people” against insurance companies. He brought contract cases. Lacky was persecuted by the organized bar, which sought to disbar him. Gordon stated that this case was a benchmark for how far we have come.

He stated that the Tennessee Justice Center was formed as part of a broad-based effort. He said that the bar today helps support TJC in doing non-restricted work that legal services programs cannot do. Gordon sees law as a tool of social justice and social reform, not just as a tool of repression. TJC, he noted, practices a “ruthless triage.” TJC focuses on health care issues, welfare law issues, and other practices that affect the poor, including the “payday loan” industry, which got immunity in Tennessee the year after legal services lost their ability to do legislative advocacy.

Gordon acknowledged that TJC has not begun to touch the legal needs that exist in the State. He gave as an example the case in which one of TJC’s attorneys, Michelle Johnson, represents James, who is now 16 years old. When James was one or two, James was removed into State custody after his mom had died of an overdose of drugs. James was placed with a drug addicted father. James was removed from his father after he was found to be eating out of trash cans. He was then “warehoused” in multiple state placements. Michelle was appointed by the juvenile court to represent James.

Before being appointed an attorney, James had been in a series of private placements, where he had been raped and assaulted by a staff member. As a result of this, James went to the Middle Tennessee Men-

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tal Health Institute, where he had been “mouldering” for three months and was overweight and medicated. Gordon says that James could be the next Robert Coe, a prisoner who was executed recently in Tennessee. Gordon questioned, “What are our aspirations for James?” Gordon encouraged lawyers who represent persons like James to “tell truth to power.” He said, “Like Pogo, we are confronted with insurmountable opportunities.” In his view, lawyering for equal justice comes down to individual lives and, simultaneously, a vision for our country. A spirited question and answer session followed.

The second plenary session began with a presentation by Professor Frank Bloch of Vanderbilt Law School. He elucidated three things: (1) resources (what exists and what could exist?); (2) mission (access to the next generation of lawyers); and (3) serving communities.

The first full presenter on the panel was Professor Deseriee Kennedy of the University of Tennessee College of Law. She discussed a course that she taught called “Contemporary Legal Thought: Race, Gender, and Class.” A focus of the course was on how to do equal justice work in the community. The course combined legal theory, social theory, film, speakers, and field work by students. Students worked in the community on projects, maintaining journals and producing tangible products of benefit to community groups, as defined by each group. Deseriee used the University of Tennessee’s Community Partnership Center to align students with interested groups.

Deseriee stated that in the course students learned firsthand about the concept of “power.” She used as an example the power of student leadership in the “sit-in movement” during the civil rights era. She said that, in her course, students were able to use knowledge they possessed prior to law school to solve concrete problems. Students were placed with community groups, such as the Scarborough Community Organization in Oak Ridge, Tennessee. This community was concerned about environmental racism and toxic pollution from the federal government’s facilities in Oak Ridge. Another student group was Citizens for Police Review, a Knoxville organization organized around issues of police abuse. Other students work with the Council of Involved Neighborhoods. This student worked on the use of civil forfeiture laws to divert seized money into drug-impacted communities. Other students worked at a domestic violence shelter.

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Deseriee stated that students learned to listen to groups, figure out who the group was, what their needs were, etc. She said that defining problems the way the group did was a task that many students had not experienced before. The same was true, she said, with possible solutions to these problems. At bottom, Deseriee felt students' learning of law and justice was enhanced through this multi-level course.

Next, Professor Susan Bryant of the City University of New York Law School at Queens College spoke to the plenary about the Law School Consortium Project. She stated that the Law School Consortium Project, which is supported by a grant from the Open Society Institute, and involves the law schools at Queens College, Northeastern, and the University of Maryland, began with several premises:

1. Law schools have a responsibility to the clients that their graduates represent and to the communities where they practice. The responsibility of the law school, in the view of her Project, extended beyond the three years of actual schooling. She called this "the longitudinal" law school. This is a law school that continued to support the justice work of its graduates.
2. Small and solo practitioners have an important role to play in equal justice communities. Seventy-five percent of people who consult a lawyer see them in small or solo practice firms. How can the large number of our students who practice in these settings continue to realize their visions of equal justice?
3. Students in this setting were in underserved communities, often over their heads, lacking resources, and in personally precarious positions.

The Law School Consortium Project has responded on three levels: financially, providing professional resources, and assisting with the personal satisfaction of practitioners by lessening the isolation of these lawyers. Susan noted that law schools have resources to assist in these areas. Law schools have credibility in fund raising, knowledge in the faculty, an understanding of technology, buying power, and ac-

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cess to the university and its programs. Working in the areas of domestic violence, community economic development, general practice, and immigrant practice, lawyers in the Project's Community Legal Resource Networks are supported by their law schools in a variety of ways. At the same time, the law school and the faculty gain from this collaboration. Such a collaboration can provide a different understanding about the meaning and practice of law and influence how law schools teach and structure courses. The Consortium Project is a pilot project that, it is hoped, will be adopted by other law schools around the country.

Finally, Frank Bloch gave a presentation on Global Alliance for Justice Education (GAJE). This is an international organization that focuses on justice education. They conduct, for example, a law reform competition in India and South Asia where law schools compete in law reform projects. Students prepare dossiers to present in the competition. These dossiers identify community needs; frame issues in legal, political, and economic terms; devise solutions; and plan the implementation of these solutions. Frank stated that this competition was unusually successful in its educational efforts, which focused on very specific skills around communication, research, and activism. Policy makers and funders are brought into judge this competition.

Another project of the GAJE centers on legal advocacy for women. The project was started at Georgetown Law School as an international human rights course. From this, international collaboration grew between Georgetown faculty members and their LL.M. graduates. The projects use technology to stay in touch and to share information.

A final project is the effective lawyer-client communication research project. This project seeks to develop parallel studies on theories of communications, roles of lawyers in different communities and in different countries, and to development of effective approaches to lawyer-client communications.

The question and answer period following the presentations raised issues of how to bring the approaches that were discussed in the plenary to, for example, rural communities in Tennessee. We know that many of our law students are from rural communities and will return to these communities to practice. How can the states' law schools use their resources to support these students?

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The afternoon workshops were focused on current issues of advocacy and education in Tennessee. They ranged from a discussion of the legal services civil justice planning process, to the creation of an Innocence Project, to the creation of advocacy efforts for the new immigrant population in Tennessee, etc. There was also a workshop on Curriculum Planning for Equal Justice in the law schools. In this session, the discussion began with a focus on the “pillars” of what is presented as “law” in the first year curriculum. Through courses such as contracts, property, and torts—the private law trinity—imprints in students what “law” is and what is “important.” The bar exam reinforces this canon. A challenge for teaching equal justice concepts is to create communities inside the classes for students to work with each other. Students also do not have a common foundation in social justice courses. Students often do not know the basic ideas about equal justice work, including issues about poverty, social change, community organizations, grant writing, community organizing, staff and board dynamics, etc. At bottom, the practice images taught in law schools are impoverished.

In the long run, the challenge is to reinvent what poverty lawyers and lawyers for disempowered communities do. How can courses treat the legal needs of individuals and communities that are not “articulated”? How can this type of lawyering take place? By piggy-backing on learner-centered education, the civic mission of higher education, and other important current movements in higher education, equal justice teaching should expand in the curriculum.

A question was also raised about what to do for the eighty to ninety percent of students who do not go into public interest law. How will these students use their “power” to help others in equal justice matters? Will externships provide a vehicle for these students to get supervised experiences in equal justice work? How about building in extra credit for students in professional responsibility courses who do ten hours of pro bono work? Law schools need to encourage student initiatives through summer stipends, etc. There also needs to be more co-teaching between teachers oriented toward practice and those oriented more toward doctrine. The irony, it was noted, is that high-level corporate practice is more like public interest practice, yet neither are the center of law school attention. Both involve teamwork, interdis-

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plinary practice, and looking forward rather than back during litigation. There is also very little attention paid to community legal education. A course offered at UT Law School in Public Interest Law and Lawyering was also discussed.

The final plenary session was composed of individuals whose task was to consolidate the discussions that were held during the Colloquium and to make proposals for the future. Professor Eugene Shapiro of the University of Memphis began by talking about reawakening students to pursue their values. He asked what faculty can do to broaden the scope of the curriculum within the limited resources our law schools have. He suggested the importance of focusing on faculty that have interest in equal justice courses during the recruitment process for faculty.

Gordon Bonnyman encouraged the expansion of loan forgiveness programs. He stated that many students go to law school because they think it has something to do with justice and, when they graduate, are faced with crushing debt. He also suggested taking students to general sessions court in professional responsibility courses. He said that this is the court where poor folks and working class people go to have the law “done” to them. He suggested passing out a general sessions detainer warrant and examining what an “abomination” it is.

Neil McBride suggested that law schools should look for ways to include poverty issues into all classes. He suggested creating an institutional expectation that public interest law ideas be incorporated into all aspects of the law school. He stated it was the obligation of a law school to work with graduates. For example, Neil speculated whether law schools should assist with a revolving fund for attorneys who agree to sue affirmatively in cases resulting from illegal evictions.

Tom Galligan discussed the civil justice planning process to date in Tennessee. He described the possible creation of a statewide law firm to provide legal services throughout Tennessee. He also talked about the possible Tennessee Legal Services Partnership. This would incorporate: (1) task forces; (2) a Tennessee strategic advocacy collaborative; (3) a Tennessee pro bono system; (4) a Tennessee partnership for self-help; (5) a universal access system that would include technology, unbundling, etc.; and, finally, (6) a Tennessee mediation

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service. He told how those engaged in the planning process have articulated the principles that guide their effort:

1. All low-income Tennesseans should have effective access to civil justice.
2. All low-income people should be provided full and adequate legal services.
3. These legal services should be rooted in local communities.
4. The system should be designed to get good results for clients.

In answering the question, What can law schools do?, Tom stated:

- ♦ Instill a devotion to pro bono work.
- ♦ Assist in overcoming resource limitations by “pooling” resources.
- ♦ Include law faculty on task forces, or as experts on list serves, involve law students doing research, and sustain pro bono programs through coordinators at various law schools.

He also noted that we should take advantage of the sophistication of our students in technology and the ability of law schools to connect with other expertise in the university.

Raney Irwin, a student at the University of Tennessee College of Law, discussed expanding pro bono work to include social workers and other professionals. She also raised the issue of required public service or mandatory pro bono. Professor Susan Brooks of Vanderbilt Law School discussed integrating advocacy with organizing. She discussed externship programs, summer stipends, programs supported by summer stipends, and promoting interdisciplinary work.

Paula Voss of the Knox County Public Defender’s Office discussed the promotion of mandatory pro bono programs, both within law schools and in the bar. She also discussed how specialization has impacted practice, even within the criminal defense bar. Paula stated that criminal defense lawyers are obligated to understand TennCare, psychology, social work, education, and science (e.g., DNA). Following these

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presentations, the professional responsibility of law school faculties was also mentioned.

All of us that were involved recognize that the key to success of this unprecedented meeting holds as a follow-up on the many excellent ideas presented at the Colloquium. This Report and the accompanying cover letter are intended as a beginning. We shall be working on several of the proposals that are contained in the letter. Please let us hear from you with your ideas.

WHITE PLAINS, NEW YORK COLLOQUIUM, OCTOBER 26-27, 2000
Pace University

Summary Prepared by Minna Kotkin, Brooklyn Law School

The Pace colloquium began with a Thursday night dinner that was planned for deans, associate deans, and legal services directors. Attendance wasn't huge (about 25, with 5 of the 13 schools represented by deans) but New Yorkers had a world-class alibi - it was the night of what turned out to be the last game of the Subway Series. Judge Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives, gave an inspiring talk, as did Elliott Milstein, of course. Judge Newton recently was appointed by Chief Judge Kaye to this new position, and she is traveling around the state, looking at how the courts can better serve under-represented groups. Vanessa reported on the results of the survey distributed to deans (she received 16 responses from 13 schools), which, not unexpectedly, portrayed a rosy picture of how schools value public interest scholarship, service and teaching. The discussion of the survey was lively, and Vanessa followed it by distributing an exercise, in true clinical fashion. She put together a packet of articles on public interest subjects, including traditional law review pieces, bar association studies, case books, articles for practitioners, and op ed columns, and asked us to rank them using two criteria: how each piece would be viewed by a tenure committee, and how useful the piece would be to legal services practitioners. The group spent more time critiquing the exercise than actually engaging in it, but it certainly provoked a spirited discussion. Vanessa finally had to kick us out because the staff wanted to clean up and go home.

The Friday program was quite well attended, with more than 70 participants, probably equally divided between academics (primarily clinical) and practitioners. Unlike the other colloquia to date, the day was spent almost entirely in working groups. Vanessa outlined the structure in a brief opening session, and distributed a sample action agenda, listing various ways law schools could work more closely with legal services offices, that could be used as a starting point. (I've asked Vanessa to post this and her other materials to the list.) We then broke up into 5 groups: Civil and Administrative Procedure, Family-DV-

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Childrens Law, Criminal Justice, Health-Elder-Disability Law, and International-Human Rights-Immigration Law. The groups ranged in size from about 10 to 20 participants, and each had a rapporteur and a law student with a laptop to take notes. At lunch, we heard from Deb Howard of the Consortium Project, Laura Abel from the Brennan Center, and Professor Randolph Scott-McLaughlin, who directs Pace's Social Justice Project. The speakers gave brief, descriptive and informative summaries of their programs.

After lunch, the working groups met again, and at the end of the day, we reconvened to report and plan for the future. Among the great ideas generated were: greater access to law school facilities (office space, law library, computer resources); better training of law students courtroom competencies, appreciation of facts, and "advocacy outside the box;" using first year orientation programs to highlight public interest practice; training for legal services supervisors in critique and simulation; from the Family Law group, a suggestion that every student in a traditional Family Law course should do an uncontested divorce; a clearinghouse staffed by the AALS to provide legal services offices with access to academics with needed expertise; a "hot line" program for quick advice; a visitor program for faculty to spend a semester at a legal services office at their law school salary; the development of a regional coordinating committee (perhaps 2 faculty from each local school), to funnel requests for help, both immediate and long-term, from legal services to the faculty members with interest or experience; involving SALT in the big issues through amicus briefs and lobbying.

At the concluding session, Vanessa raised the issue of whether we should meet again to report on progress in the implementation of these ideas. It was felt that we should get together when we had concrete results to discuss. One suggestion was that instead of scheduling a colloquium for a full day during the week, which is difficult for practitioners, we should hold a session at the statewide legal services meetings that are convened on a regular basis. It was also suggested that the working groups need not be organized around areas of practice, since all of the groups had similar concerns; participants could divide by interest in particular action items.

All in all, this was a stimulating and very productive day, using a model that minimized "talking heads" and truly engaged the participants.

MINNEAPOLIS, MINNESOTA COLLOQUIUM, NOVEMBER 10, 2000
University of Minnesota

Summary Prepared by Mary Helen McNeal, University of Montana

Elliott Milstein and I attended the Minnesota Equal Justice Colloquium on November 10, 2000. Although the attendance was lower than what we might have hoped, there were about 60 different people there throughout the day. The conference opened with brief remarks from a panel of local law schools Deans. Although the Deans did not stay throughout the day, their presence obviously indicated their support for the project. Elliott then introduced the EJ Project.

Lucie White delivered a morning keynote address entitled "Equal Justice and Legal Scholarship." She focused on how our scholarship can support a partnership approach to equal justice work. She stated that the process of joining forces with low-income communities is as important as the specific project objectives, and that it is the process that creates the learning. Such partnerships expand the capacities for client voice, for forming and working effectively in groups, for strategic planning, and for democratically constituted leadership.

Professor White also outlined strategies for research and scholarship arising out of partnerships with local communities. They include the following: 1) Conventional, issue-oriented research. For example, she worked with a group in Ghana that brain-stormed about economic development issues, and ideas needing additional research; 2) Research that consciously involves low-income participants. This research helps to enhance the knowledge base within low-income communities, with the academics structuring the research; and 3) Research that documents the partnership, such as case studies. Professor White also outlined some of the challenges of her work. They include the temptation to have a "humanitarian rescue" mind set and to see the work as part of a "moral crusade" in which community members are enlisted to do it our way.

Lucie's presentation was followed by a panel of providers. Julie Bennett of Central Minnesota Legal Services identified issues that her clients face that need additional research, including the relationship

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between welfare reform and housing, a variety of TANF issues including its effects on clients' stability, whether or not the job training programs work, and child care issues. Other areas needing research and attention are children's SSI and family law.

Liz Richards of the Battered Women's Legal Advocacy Project candidly said that they do not look to the law schools as a resource, because we are ineffective for their clients' needs. She told anecdotes of law students who were unable to think creatively and to understand the need to expand the law to assist their clients. Most significantly, they look to nonlawyers to assist them. On a more positive note, she said they are working to develop a Tribal Justice Project that is developing different models for tribes in resolving domestic disputes. She emphatically encouraged us all to train our students to think creatively.

Dave Kudak, of Legal Aid Society of Northeastern Minnesota, who practices in a rural setting, encouraged us to think about mechanisms to make it possible for more students to do equal justice work after graduation. His suggestions included reducing the costs of law schools and more loan forgiveness programs. Issues he would like assistance with included bias against Native Americans, the effects of the sixty-month welfare cap, profiling of gangs based on race, and mental illness issues. Jim Hankus of the Ramsey County Public Defenders Office rounded out the panel, encouraging law schools to help them attract graduates of color.

This panel was followed by small group discussions, organized by topic. Topics included housing/legal services, immigration and human rights, rural issues, criminal law, and battered women's issues. I attended the discussion on rural issues. The following suggestions were generated in this discussion: 1) Have law school faculty supervise students doing research projects for legal services lawyers in remote locations; 2) Link clinical program graduates with pro bono opportunities; 3) Offer more training on diversity issues; and 4) Engage students to research projects that address systemic issues, such as local transportation problems (that contribute to clients' missing welfare and other appointments), changes in regulations, etc.

Susan Curry, Director of the Minnesota Justice Foundation (MJF), made a lunchtime presentation on their Law School Public Service Program. Each student in a Minneapolis law school is encouraged to

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perform 50 hours of law-related public service. MJF acts as a clearing-house for potential volunteer opportunities. They have offices and staff at each law school. MJF is funded with contributions by the law schools and independent fund-raising. This very interesting model is successful, according to Susan, because of their physical presence at the law schools, the role of bar leaders and clinicians in its initial design, their ability to do face-to-face recruiting, the strength of the legal services programs, and the proximity of the law schools to each other. Susan also reported on MJF's newest initiative to introduce a poverty law perspective in the first year curriculum at the local law schools. MJF clearly plays an integral role in encouraging the law schools to expand their equal justice work.

The afternoon began with a panel on equal justice and the curriculum. Steve Befort of Minnesota provided more details on the joint project with MJF to address poverty issues in the first year curriculum. The proposal is to encourage faculty to develop "modules" on poverty law that could be taught in the first year courses. The proposal includes faculty incentives provided by the law schools in the form of money and publication rights for those interested in developing the modules. The long-term goal is to publish these materials. Steve also reported on several institutes at Minnesota that address equal justice issues, including the Race and Poverty Institute run by John Powell and the Center for Human Rights.

Carol Chomsky, also of Minnesota, gave examples of how to incorporate equal justice issues in the traditional curriculum. She encouraged us to: 1) Discuss the impact of the rules on different kinds of people; 2) Hear the voices of those excluded from the legal process, by incorporating less traditional cases and materials; and 3) Open the classroom to the diverse perspectives that the students bring. Carol enthusiastically discussed alternative materials she uses in her first year contracts class that address mental disability issues, medical services for the poor, and domestic violence issues. She also has her students assume different roles, such as low-income homeowner, small business person, etc, in their classroom discussions, and evaluate how the legal issues affect them. Carol also has her students work with community organizations, learning about the members' needs and lives, and developing contract rules that address important issues in their members' lives.

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Angela McAfferty of Hamline discussed aspects of their curriculum that relate to equal justice issues. Their efforts include having faculty rotate into the clinic, promoting student concentrations in social justice and children and the law, a faculty colloquium to address how to better reach students, and dialogue among students, faculty, and Deans about the classroom climate. Larry McDonough, an adjunct at Minnesota who co-teaches poverty law, has developed his own materials, using legal services as a resource.

This panel was followed by small group discussions on incorporating these issues into the curriculum.

The final event of the afternoon was a presentation on a proposed Community Development Clinic. The proposal, submitted by Lindsey Jones and Tisha Tallman, is to create a Minnesota Sustainable Assistance Project, hopefully situated at a law school or consortium of law schools. The goal is to provide technical and legal assistance to low wealth communities for community revitalization and sustainable development initiatives. Law students would be paired with mentor lawyers with particular expertise in applicable transactional law. This proposal has been submitted to various funding entities, and Lindsey is seeking additional support from the law schools. The interesting proposal was well received.

To conclude, Maury Landsman of Minnesota summarized the day and outlined some of the issues that had been discussed. He mentioned the need for a Criminal Defense Policy Institute, housed within a law school, to identify law reform issues and get the institutions more involved in these important issues. He identified the need for more collaboration between traditional faculty and legal services providers, particularly around curriculum issues. The MJF proposal for the first year curriculum is an excellent step in this direction. Maury also highlighted the important issues related to domestic violence, and the need for empirical research (about case dispositions, housing for battered women, welfare, domestic violence and work, pro se issues, etc.) Maury concluded with suggestions for continuing this discussion: 1) Semianual meetings between faculty and providers to discuss important issues; 2) Discussions during local conferences; 3) Developing a listserv to address these issues; and 4) More outreach by the law schools to the community.

NEW ORLEANS, LOUISIANA COLLOQUIUM, NOVEMBER 11, 2000
Tulane University

Summary Prepared by Dean Hill Rivkin, University of Tennessee

The Colloquium was held on Saturday, November 11. The event, which was attended by up to 30 people, including faculty from the 4 Louisiana law schools (a first I was told), began with a panel called “Toward Increased Collaboration among Law Schools and the Practicing Bar.” This panel consisted of key players in Louisiana’s equal justice community, including legal services people, pro bono providers, and lawyers for the ACLU and ACORN (a national group devoted to community organizing). The discussion centered around legal needs in the state and how the groups represented by these lawyers have been responding.

The second panel, which was entitled “Expanding Collaboration: Universities, Community Organizations, and Law Schools,” consisted of the very community-oriented director of the Loyola Clinic, a faculty member from Dillard University, and the head of New Orleans Community Labor United, an umbrella community reform organization. The sophisticated discussion here centered on the role of Universities in responding to communities and the complex theories and strategies that are required.

The keynote speaker at lunch was Gerald Lopez, now at NYU. Gerry gave a powerful talk on the need for and meaning of collaboration among faculty, institutions, and communities if equal justice and social reform is to be furthered. Gerry spoke highly of our Project, saying that he thought what we were up to was as “real” as anything he’d seen coming from the AALS. He complimented Elliott and our steering committee for taking the directions we did in the Colloquia Series.

The first afternoon panel, “Mainstreaming Law Courses and Community Involvement,” consisted of faculty from 3 of the 4 Louisiana law schools. These faculty talked about the clinical work that each school did (or did not do) and classroom work on equal justice issues. The final panel, “Scholarship on Underserved Populations,” featured

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faculty from all 4 LA law schools and a faculty member from Syracuse. Each member of the panel addressed the hard issues of legitimacy of such scholarship and gave examples of the difference that such scholarship can make, both for the individual and the outside world.

All told, the Colloquium opened up avenues for new collaboration among the 4 law schools and constituencies who had not been involved much with the law schools. For example, several members of a community organization from a rural area outside of New Orleans attended and spoke of their disappointing experiences with lawyers who had represented their community in an environmental contamination case. On the downside, the Colloquium unfortunately lacked much student attendance. Also, there was only one representative from a law school outside of Louisiana (from Texas).

Terry O'Neill will submit a more detailed report and she'll also talk about the follow-up efforts that were discussed at the Colloquium.

FAYETTEVILLE, ARKANSAS COLLOQUIUM, NOVEMBER 17, 2000
University of Arkansas, Fayetteville

Summary Prepared by Mary Helen McNeal, University of Montana

The Arkansas Colloquium went very well. Attendance was approximately 30-35 people. Everyone who was there actively and enthusiastically participated, and people attended from a variety of schools in the area. There was much good discussion, and a list of ideas for promoting equal justice was generated. One of the highlights was the final talk by Arkansas Supreme Court Justice Wendall Griffin. (See more below.)

The morning began with a welcome by the Dean Bob Moberly of the U. of Arkansas, Fayetteville. (Dean Moberly, incidentally, stayed for the entire program.) There was a morning keynote by Deborah Rhode on "Equal Justice Under Law," in which she addressed conceptual failures, judicial failures, and the profession's failures in taking equal justice seriously. Her draft piece on the same topic was circulated and will be published in an upcoming law review symposium there on equal justice issues.

I then moderated a panel on the needs in the community. There were two presenters, Rod Uphoff of the University of Oklahoma on criminal justice issues and Frank Head of the Catholic Immigration Services of Northwest Arkansas on the legal needs of the area's growing immigrant community. Rod highlighted, among other things, the disparities in indigent defense representation from state to state. Frank addressed the impact of the lack of legal services for the immigrant community in the region.

The final morning presenter was Grif Stockley, a long time legal services lawyer and advocate. He provided a nice history of legal services, from its early days to its current restricted status. He described the limited focus of current programs, and suggested that the academy could assist in analyzing delivery systems.

Lunchtime offered a panel discussing equal justice issues in teaching, scholarship and service. Tom Sullivan of UALR discussed the role of service to the profession, the legal community, and the law. He encouraged us to work to educate the bar and to take on legal work. Tom

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acknowledged that there will be tough calls, and said that if “academic freedom means anything ...we must accept the fact that service is going to be controversial.” His comments were peppered with stories from his own work handling death penalty matters and criminal defense cases. He also suggested that we should work toward changes in the law. He highlighted UALR’s Journal of Appellate Practice and Procedure, which is mailed to every appellate judge in the country, as an example of a creative faculty project that can be influential.

John DiPippa of UALR filled in for Rod Smith, of Memphis, whose plane was canceled. Reading Rod’s remarks and ad-libbing, John emphasized the need to have a pervasive service ethic through which all work, including clinical work, is evaluated. He recommended that every legal project be subjected to an internal service standard. He encouraged scholarship that is more than self-referential “academic poetry” and suggested an “impact requirement” for scholarship. There was an interesting question and answer session following these presentations, much of which focused on what kind of work we reward within the law school institutional setting and how that might be changed.

Tom Sullivan launched the discussion with a film clip from “Just Cause,” where the grandmother of a man on death row pleads with a law professor to take her grandson’s case. The professor has just finished presenting a lecture on these issues, but initially tells the woman he is a teacher, not a lawyer, and cannot help. It was a very moving scene and a great jumping off point. We then brainstormed more specific ways we can more effectively address equal justice issues in our teaching, scholarship, and service, and within our institutions themselves.

The final speaker of the program was outstanding. Judge Wendall Griffin of the Arkansas Supreme Court, who is also a Baptist minister, opened by saying that this conference was the first effort of its kind in Arkansas, and one that has long been needed. He had three major exhortations: 1) To agitate - within the bar, among public policy makers, and the general public; 2) To be sophisticated about access to justice, and creative and innovative about responses to retrenchment. Do not expect to be politically rewarded for your work in the trenches; and 3) To be resilient. This inspirational message was a wonderful and motivating end, and one that I think inspired all of us to continue our work and to involve others in equal justice issues.

ALBUQUERQUE, NEW MEXICO COLLOQUIUM, NOVEMBER 17, 2000
University of New Mexico and Arizona State University

Summary Prepared by Alicia Alvarez, DePaul University

The University of New Mexico and Arizona State University held the Equal Justice Colloquium on November 17, 2000 in Albuquerque. The Colloquium was a great success. Approximately 60 people attended, including law professors from both schools, judges from both states, equal justice folks from both states, non-lawyers from community organizations and law students. The conference was held at a community center near the law school.

New Mexico's Dean welcomed the participants. Participants in the opening plenary included 2 law professors (one from each school), a federal district court judge and a non-lawyer director of a community organization. They were asked to envision what equal access to justice would look like in an ideal world. The small groups in the morning were asked to answer questions about what the judiciary, service providers and private attorneys could do with law schools to increase access to justice, as well as what law school libraries, technology in law schools and students organizations could do to increase access to justice.

Jose Martinez, the Director of UNM's clinic was the luncheon speaker. The afternoon break-out groups were asked to produce concrete recommendations for an action plan. The groups then reported on the recommendations. Among the recommendations were that a report be prepared by January 15, 2001 and that there be continued communication between the participants.

The schools decided not to do a public invitation, everyone in attendance was there by invitation. I think the turn-out was good given the size of the schools and states and was impressed by the wide variety of people.

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SEATTLE, WASHINGTON COLLOQUIUM, JANUARY 19-20, 2001

Seattle University School of Law

*Summary Prepared by Mary Helen McNeal,
University of Montana School of Law*

The Seattle Equal Justice Project was very well attended and received tremendous support from the Seattle University Dean, faculty and staff. Approximately 150 people registered, with a few less actually attending. Dean Rudy Hasl participated for the entire event, as did faculty from Idaho, Montana, Oregon, University of Washington, Lewis and Clark, and Gonzaga. The conference also drew legal services attorneys, other legal advocates, judges, and private attorneys.

Friday, January 19, 2001

The conference began with a preliminary session for law students on the "Nuts and Bolts of Legal Services." This session conducted by Chris Allen Crowell of Seattle University's Access to Justice Project and Klaus Sitte, Deputy Director of Montana Legal Services, provided helpful background information on legal services issues for law students interested in attending the remainder of the conference.

Friday evening there was a reception and welcoming dinner for conference attendees. LSC President John McKay was unable to attend due to the inauguration, but Dean Rivkin gave a great talk about the Equal Justice Initiative and interesting projects occurring around the country addressing equal justice issues.

Saturday, January 20, 2001

"Challenging Cooperation Despite Conflicting Missions"

Saturday morning began with an enthusiastic welcome from Seattle University Dean Rudy Hasl. Mary Helen McNeal followed up with a brief introduction on the Equal Justice Project. The early morning panel, entitled "Challenging Cooperation Despite Conflicting Missions," included Professor John Powell of the Institute on Race and

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Poverty at the University of Minnesota and Ada Shen-Jaffe of Columbia Legal Services.

Professor Powell discussed the role of equal justice issues within law school curricula. Relying on his work on diversity curriculums in primary schools, he pointed out that diversity training is usually either an “add-on” or, if more integrated into the curriculum, the rest of the script remains the same, with the diversity piece added in. When schools are challenged as to why they do not do more than that, they respond that they are feeders to other institutions and therefore must stay within the mold. Professor Powell said that law schools are similar, in that increasingly we are preparing students for the bar, and that the bar is becoming a policing institution. Equal justice issues typically are addressed in law schools as an “add-on.” These issues may be addressed in clinics, but the clinics have been unable to imbue the law schools with different missions.

Within the law school itself, Professor Powell continued, tenure is the policing force, which makes it hard to encourage an emphasis on equal justice issues. In his view, most law school missions are not consistent with an equal justice mission. To have an equal justice mission, a school needs to develop coalitions, a community vision and community purpose, and an institutional structure that furthers the equal justice goals. He pointed out that although we require public service of all faculty, faculty are not turned down for tenure if their service is inadequate.

Professor Powell then asked what we mean by equal justice - is the phrase redundant? Do we mean access to courts, to legal apparatus? Access to the law doesn't necessarily mean justice. If we could tie the equal justice movement to justice, there may be a common mission with law schools. Professor Powell said that justice is not a distributive model, but rather, that everyone's deficit is related to someone else's privilege. With respect to legal services, justice requires that everyone be permitted to participate in naming the important resources in the first instance.

Ada Shen-Jaffe began with the premise that law schools and providers of services for low income and underrepresented people have the same mission, and are like “complimentary proteins.” We share the same mission because the constitution, declaration of independence,

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and Supreme Court case law require it. Ms. Shen-Jaffe described the mission of Washington state's equal justice community, and the hallmarks of that vision. She argued that law school missions can be consistent with those objectives. Law schools should examine the AALS mission statement and explore whether it is consistent with an equal justice mission, identify partners with whom they can work to further justice, and examine what the law school can bring to the table.

Ms. Shen-Jaffe said law schools should "step up to the plate and swing." Law schools need to focus more on teaching values and professional development, and should help communities replace the legal services infrastructure that Congress has been dismantling. She said law schools should be providing leadership and role modeling. Ms. Shen-Jaffe argued that law schools are uniquely positioned due to their institutional memory, and are positioned to carry out ideas over time.

"What Legal Services Providers Need From Law Schools"

The next panel challenged law schools to become more involved in specific ways. It included John Adams, Public Defender from Kootenai County, Idaho, Richard Baldwin, Director of the Oregon Law Center, Trudy Flamand, Indian law practitioner from Helena, Montana, and Patrick McIntyre, Director of the Northwest Justice Project. Dick Baldwin encouraged schools to develop a culture of professional responsibility that includes increasing access to justice, encouraged individual faculty to become leaders and to foster student participation in equal justice projects, and educate ourselves so we can become effective advocates on equal justice issues. Pat McIntyre invited law schools to become integrated into "client-centered state justice communities" in a meaningful way.

"Incorporating Equal Justice Throughout the Law Curriculum"

Professor Barbara Aldave of the University of Oregon provided an inspiring talk following lunch. Like Professor Powell, she began by discussing what we mean by justice. Acknowledging that we have not gone far enough, even in our aspirations, she noted that our goal should be equal justice, not just equal administration of the rules. Professor Aldave outlined various kinds of justice, including individual or com-

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mutative justice, distributive justice, and social justice. Social justice focuses on what we owe society and humanity, and how we can create a social context that treats all with respect. Distributive justice focuses on what is owed by society to each individual. In the United States, we focus on individual justice, with insufficient attention to social justice. Professor Aldave argued that when we say we need equal justice, we should be addressing how to provide students with the knowledge, skills, and commitment to work for social and distributive justice as well as individual justice. We need to inspire students to work for REAL justice, not just equal administration of the rules. To say nothing about equal justice is to acquiesce in the status quo.

Professor Aldave then addressed how we might do this in our teaching. She recommended that we revisit our curricula, particularly the first year curriculum, and adapt them to the demands of our time (noting that they have remained the same since 1900!). She recommended more interdisciplinary courses, a focus on international and comparative law, skills training, an emphasis on the Internet and high tech, and education about justice issues. Mainstream courses should incorporate discussion, student observation, and problem solving activities.

Professor Aldave then described clinics as a “golden opportunity” for discussing the root causes of clients’ situations. Every clinical program should educate students on the law, assist them in honing their skills, and engage the students, in the clinic or the classroom component of the clinic, in rigorous study of the causes of legal needs and remedies. Finally, she argued that every law professor should be required, at least in alternate years, to teach in the clinic or in associated classroom courses. This would result in a multiplication of resources devoted to equal justice issues, and would inspire more faculty to incorporate equal justice issues into traditional course offerings.

The afternoon continued with the following concurrent sessions:

1. “Incorporating Equal Justice Teaching Throughout the Curriculum”

(Summary prepared by Dean Rivkin)

The first speaker was Professor Kellye Testy of Seattle University, who teaches contracts, corporate law, securities, etc. At the outset,

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Prof. Testy emphasized that, to incorporate justice teaching throughout the curriculum, we need to concentrate on how we teach, as well as what we teach. Students need teachers who reach out to them in all of their diversity, including learning styles. Students who do not respond to the Socratic method, for example, often become very marginalized. Decisions about teaching methods and styles are political choices.

Teachers should explicitly adopt an anti-subordination approach. How do rules affect the poor? Can they be altered? This perspective can animate any class. Teachers should be evaluated on this criteria. Professor Testy has written a recent article in the Georgia Law review on teaching corporate law from an anti-subordination perspective. Testy quoted the poet Adrienne Rich: "Truthfulness anywhere means a heightened complexity." This approach to teaching calls for more critical thinking, more "rigor," more sophisticated analysis, subtle attention to context, more focus on power and power relationships, and more sustained hope, imagination, and care.

The next speaker, Susan Mandelberg of Lewis & Clark, teaches criminal law, federal courts, and environmental enforcement. She began by saying that there was plenty of material to integrate equal justice materials into mainstream courses. She talked about how to do this in substantive criminal law. She stated that what is criminalized has a differential impact on different populations. The issue of crack cocaine is a prime example. She said that her class usually divides over these issues into four groups: 1. progressive students, who only hear what confirms their preconceived beliefs; 2. conservative students, who label the teacher politically correct, feel threatened, and turn off; 3. Nontraditional students (e.g., students of color); and 4. the undifferentiated middle of students. She observed that her goal is not to change students' minds but to plant seeds by offering different perspectives. She tries to show that law is a cultural artifact, and that doctrine reflects culture and moves over time. She uses materials like the Bernard Getz case from NYC. These materials present a dilemma for progressive students about why the criminal law shouldn't take into account frightened "white racists" like Getz. She also explores how the criminal law is a tool for conformity for the controlling class. To give two examples, she puts together situations involving immigrants and indigenous people. She noted how difficult it is to teach about these concepts, and that she

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is never sure where the “hidden arrow” will come from as to who gets offended or angry.

Professor Lynn Daggett of Gonzaga spoke next. She teaches torts, education law, and constitutional law. She began by observing that students often get discouraged about justice in their coursework. She says that reading a steady diet of appellate cases removes the client from the picture and gives the impression law is not very real for people. She said that equal justice teaching should not be an “add-on” or an “enrichment” segment. She made four points: 1. She suggested that all teachers do a content audit of their courses. For example, does consumer law, dispute resolution, and section 1983 get taught in torts? 2. We should bring more nonlegal materials into our classes to show that law is about real people with real problems. She mentioned books like *A Civil Action*, movies like *Matewan* (for labor law), and the Peter W. documentary on mainstreaming for education law. She emphasized that teachers should construct problems with real clients and engage students with simulations. 3. Professor Daggett noted that discussions about justice issues in large groups are fraught with peril. She uses small groups with report backs and writing exercises to explore justice issues. For example, in con law she asks her students to grade the Supreme Court on their abortion case decisions and to explain the grade. 4. Finally, she helps students gain “custodianship” of the law and to pursue areas of interest through directed research. She also invites students to give talks to outside groups.

The final speaker was Professor Maggie Chon of Seattle University. She discussed her forthcoming book on the internment of the Japanese during WW II, a project funded by Congress as part of the recent reparations legislation. She uses these multi-authored materials in several ways in her teaching: 1. To contextualize the study of law. For example, the Supreme Court decision in *Korematsu* is usually taught for its doctrinal importance in the development of strict scrutiny equal protection analysis. This approach leaves out the consequences of the decision upholding the internment and how the Japanese community mobilized in the 1980s to vacate the convictions that took place in the '40s; 2. The theme of her classes is to show how communities struggle against injustice. These materials would be powerful in a range of courses, including evidence, ethics, civil procedure, constitutional law, criminal procedure and human rights classes.

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2. “Scholarship Supporting Equal Justice”

Professor Deborah Maranville of the University of Washington spoke about the role of scholarship in addressing equal justice issues. She focused on some “nuts and bolts” of scholarship, answering the following questions: Can I write? Do I have anything to say? Can I get an audience? And does it matter if I write it? She encouraged us to write about equal justice issues because they are issues about which most of us care. She suggested being savvy about where our articles are placed, to present pieces to audiences to increase visibility, and to place articles on websites to reach different readers. Those interested in doing equal justice work must engage in “multi-forum advocacy,” of which scholarship is a part.

Professor Ray Cross of the University of Montana spoke about his work in the Indian law field. He presented some history of scholarly works in the field, particularly Felix Cohen’s Handbook of Federal Indian Law. He discussed the role of this book in remaking contemporary Indian law, and ultimately the failure of this top-down strategy for reforming Indian country. Professor Cross then addressed a new “bottom-up strategy” for law reform in Indian country. This strategy includes an Indian law scholarship program, the summer Indian law program at the University of New Mexico, and litigation efforts focusing on law reform. He then described his own scholarship in this field, and how it operates as a mechanism for him to express his gratitude for his privileged life as an Indian lawyer and as a means of understanding interconnections among Indian and non-Indian people. He suggested that legal scholars play an important role as creators of the text and in informing disciples.

Professor John Powell then spoke about the reasons to write. He said that he really doesn’t know what he thinks about an idea until he writes it down. He suggested a focus on “constitutive justice,” where one can call a world into being. One way to leave a legacy, to communicate across time boundaries, and to call a world into being is to write about it.

3. “Technology Bill of Rights”

The Honorable Donald Horowitz, member of Washington state’s Access to Justice Technology Bill of Rights Committee, Robin Lester

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of the King County Bar Association, and Jean Holcomb of the King County Law Library presented their new initiative for a Technology Bill of Rights. The premise is that the increasing use of technology may present barriers to justice for some people. The Technology Bill of Rights would address the barriers created by technology and develop strategies to open barriers through the use of technology. The panelists' plan is to develop a document that would be adopted by the Washington State Supreme Court. One panelist raised the interesting question of whether access to justice is a constitutional right and if, increasingly, access to justice is only through technology, whether or not access to technology becomes a constitutional right. The panel suggested a variety of roles for law schools in this effort: 1) Scholarship - What areas of substantive and procedural law will be affected by technology, and how should rules be changed to address these issues? 2) Research on the effects and potential effects of technology on access to justice. They recommended involving law students in this effort. And 3) Direct contact with clients. Help the group obtain input from clients, potential clients, and organizations representing them on how technology is influencing their access to justice.

4. Innovative Service Projects

(Summary prepared by Cindy Adcock)

This session began with an introduction by L'Nayim Suman-Austin, Pro Bono Fellow at Seattle University. She described the Equal Justice Institute at Seattle University, which helps keep public spirit alive and students energized, and helps overwhelmed students survive.

The first panelist was Gilliam Dutton, of the University of Washington's Immigration Clinic. The clinic originated with a grant from LSC to increase cooperation between law schools and LSC. It provides service to individual clients, including representation at administrative proceedings to obtain welfare benefits, and engages in impact work. Each student takes on one impact project during the year. The students' preconceptions and stereotypes are burst. With the 1996 changes to the welfare laws, it was difficult for immigrants to receive benefits, and the clinic's work to provide assistance in this area has

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been quite successful. One student has carried on the work of the Immigration Clinic by joining the staff of the Northwest Justice Project.

The second panelist was Anita Ramasastry of University of Washington's Immigrant Families Advocacy Project (Pro Bono). Professor Ramasastry, who teaches UCC and Contracts, is also committed to social justice, and has become a role model for students. This project is staffed by volunteer students, attorneys and a faculty advisor. They provide services to immigrant women who have been battered. Under the Violence Against Women's Act, immigrant women can tell their own stories through self-petitioning. If they can document abuse, they can stay in the US. The lawyers and students help women tell their stories. The Project provides training for students in immigration law, domestic violence, counseling, and cross-cultural understanding in five training sessions. It pairs students with volunteer attorneys. The Project, which began in 1996 with one volunteer attorney, now has 20-25 attorneys, most of whom are either immigration lawyers or graduates from this project.

This Project provides the following benefits to students: they work with a real client, experience that domestic violence cuts across political lines, learn numerous substantive areas of law, and learn about the countries of deportation. Professor Ramasastry is glad to be engaged in the project, despite the hardships. She believes it has affected many students and clients, and teaches that volunteerism is important. The Project now has outside funding from an alumnus in the amount of \$25,000. In the future, they hope to partner with a law firm. Professor Ramasastry believes that schools need to support such projects financially and within the tenure process.

The third panelist was Monica Shurtman of the University of Idaho. She teaches in the Tribal Law Clinic, and is working on immigration cases she brought with her from the International Human Rights Clinic at St. Mary's Law School. These cases address cross-border issues, and involve human rights advocacy. They involve traditional client representation and community education and policy work, and often incorporate a holistic approach.

Professor Shurtman is now applying the same methodology to tribal law and cases in the areas of criminal law, juvenile defense and custody. This immigration law perspective is helpful, given that the US

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Constitution does not apply and that there is a small body of binding law. She is trying to find ways to keep clients out of the system.

The fourth panelist was Liz Brandt of the University of Idaho, who teaches trusts and estates. She also volunteers with the ACLU and various government and bar boards. Professor Brandt involves students in this work and in her work with the Idaho Court system in the area of family law. Examples of projects on which she and students have worked include the following: challenging abortion restrictions and anti-gay legislation; factual investigation on prison complaint cases; legal research and legislative work, including testifying before the state legislature; interdisciplinary work on the death penalty, work that is now being used as expert evidence in death penalty cases; and social science work in the family law area. Professor Brandt also pairs students with ACLU cooperating attorneys. Professor Brandt believes it important to get students involved in professional efforts, and that role-modeling is important. She typically takes five to six “directed study” students each year who engage in this work. She is required to “teach” these students and grade their papers.

The final panelist was Davida Finger, a second year student at Seattle University, who provided a student perspective. She participates in Seattle Youth Legal Advocates, an organization started by a UW student who is now a NAPIL fellow. Students rate this as one of the best organizations with which to volunteer. Students get to see cases from beginning to end, and work there for 15-20 hours per week. Ms. Finger also discussed the Center for Human Rights and Justice, an ad hoc group created by two professors at Seattle University. This group works on current human rights projects, and provides students with an opportunity to work on issues they probably will not see after graduation.

Other projects that were identified included the Gonzaga International Criminal Justice Clinic, where students provide legal work to support death penalty attorneys across the country, helping them incorporate international law issues into their cases. This work is supervised by Gonzaga Professor Speedy Rice. The University of Montana has a program partnering law students and attorneys. Ms. Finger commented that law schools should help students write grants to provide supervisors for projects.

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FORT LAUDERDALE, FLORIDA COLLOQUIUM, JANUARY 26-27, 2001

Nova Southeastern University

Summary Prepared by Alicia Alvarez, DePaul University College of Law

The conference opened with a reception on Friday evening. On Saturday morning, Dean Harbaugh welcomed everyone and introduced the first three speakers - Herman Russomanno, President of the Florida Bar, Terrence Russell, President-Elect of the Florida Bar, and Elliott Millstein. Jaime Ruberté, the President of the Puerto Rico Bar Association, was also introduced. Fran Tetunic, the chair of the conference planning committee mentioned that there were law professors from all the Florida schools in attendance. There were over 160 participants - Elliott mentioned that this was the highest attendance thus far. There were 20 attendees from Puerto Rico, consisting of professors, legal services lawyers, private practitioners, judges, and community representatives involved in civil rights issues.

The morning plenary panel consisted of various speakers introducing various collaborative efforts. Kent Spuhler of Florida Legal Services began the discussion. Paul Doyle of the Florida Bar Foundation spoke of the state planning effort (140 different programs) and summer fellowships. He mentioned that banks only pay 1% to IOTA. He mentioned law school loans being one of the biggest challenges to the programs. Finally, he spoke of a letter written by the Florida Bar President, which generated a tripling of contributions to Children's Legal Services.

Catherine Arcabascio spoke of her class "Post Conviction Litigation Workshop" which works with 10 students and lawyers in the community through the Innocence Project. Deborah Howard spoke of the Law School Consortium. Maryland is working on a demonstration law office. Northeastern is working on domestic violence (seminar) and community economic development (client base of small businesses in an empowerment zone). CUNY is working with general practitioners in immigration. Each law school is experimenting with a different model. Robin Rosenberg of Holland & Knight spoke of the Community Ser-

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vice Team. The firm has 3% of its revenues going to public interest. It has lawyers working with public interest agencies, including Smith Fellows, who spend 2 years working full time for public interest agencies.

Anthony Alfieri from the University of Miami spoke of the Center for Ethics and Public Service. The Center works with 70 students in 5 practice groups, including one that is the ethics advisor for Greater Miami Legal Services and FIAC (Florida Immigrant Action) and a pro bono group (which works on a community health education project).

The group then broke into subject matter groups that were to identify issues that faced the provision of legal services in the morning and in the afternoon, work on potential solutions that involved law schools. The groups were Children, Environmental Justice, Prisoner's Rights, Domestic Violence, Immigration and Civil Rights.

Justice Hernandez Denton of the Puerto Rico Supreme Court was the luncheon speaker. He spoke of the need to vindicate in practice the rights granted in theory and the need to extend the blanket of justice so no one should grow cold under our watch. He spoke of the efforts in Puerto Rico to increase access to courts - a toll free number, kiosks, web site, drug courts (with social workers and education). He spoke of clinical programs at the U. of Puerto Rico, which began in 1952 and is mandatory for all third year students, and the Inter-American University. He mentioned that 5 major cases before the Puerto Rico Supreme Court in the past 2 years were brought by clinics. Finally, he mentioned that the court has asked law professors to handle indigent cases.

The Children's group identified the need for experts, a listserv, a CLE manual and the need to mentor pro bono attorneys. The Environmental Justice group mentioned the need for information - national website and listserv network. The Prisoner's Rights group identified the need for money and first amendment professors. The Domestic Violence group identified the need for appellate work in the area. The Immigration group identified public education as one of the things that law schools could do. Law professors could get more involved in the local bar. Law schools could provide some training on how to make public interest private practice affordable. Access to law schools, including for the immigrant communities, is an issue that loan forgive-

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ness programs would aid. Networking between alums and law schools and CLE are ways to have access to information for alums so they can handle cases. Law schools should require a pro bono disclosure statement from firms recruiting on campus. Law schools should set up clinics in subject areas no covered by service programs in order to train law graduates so they can provide services when they graduate. At the same time, the clinic would fill a service vacuum.

DENVER, COLORADO COLLOQUIUM, FEBRUARY 10, 2001
University of Denver

*Summary Prepared by Howard Rosenberg,
University of Denver College of Law*

The Colloquium was initiated on the evening of February 9, 2001 with a reception and dinner for Colloquium planners, speakers and panelists.

Saturday, February 10th, began with welcoming remarks from Dean Mary Ricketson of the College of Law. Dean Ricketson was a strong and enthusiastic supporter of the Colloquium, assuring the planners that the College would provide all necessary financial resources to ensure the success of the Colloquium. As a result of the Dean's financial commitment, about 135 participants attended the Colloquium, which had no registration fee, a free lunch and an award of C.L.E. credits.

Jean Dubofsky, a former justice of the Colorado Supreme Court, lead counsel before the U.S. Supreme Court in a case involving the right of Colorado cities to prohibit discrimination of gays and lesbians and the first woman to be appointed to the Colorado Supreme Court, gave the keynote address. Jean was also a former legal services attorney and a law professor. Her address that encouraged development of models for law schools to take responsibility in teaching, scholarship and service to underrepresented groups, was extremely well-received by the participants who rated her remarks as excellent and thoughtful.

The morning panel then began first with the providers of legal services and their perceptions of the needs of underserved persons in the area of civil legal services, criminal defense, disabled and older persons, and those who receive public benefits. This panel was followed by a second panel that built upon the theme of the Colloquium, building bridges between the law schools and the various underserved communities. The panel discussed the issues of mandatory pro bono for lawyers and law students as a way to bridge the gap between the legal needs of underserved communities and access to justice for those communities.

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Afternoon workshops continued the theme of building bridges to further provide access to justice in the areas of law school curricula, how the curriculum of the law schools can be maximized to provide sensitivity, knowledge, skills and training to law students as an integral, institutional and pervasive part of legal education. Other workshops explored the specific issues of access to, and cooperation with, the law enforcement community, the ways law schools can be involved with issues of fair housing, and a final panel revisited the process and issue of building pro bono values in the law school. The facilitators, Judge Dan Taubman of the Colorado Court of Appeals and Dean Ellen Chapnick of Columbia University Law School stressed the responsibility of the law schools in bridging the equal justice gap and the benefits of a mandatory pro bono curriculum for the law schools.

The final plenary and wrap-up focused on development of models for law school relationships and interaction of underserved communities. This workshop was directed by Deborah Howard, Director of the Law School Consortium Project. Ms. Howard discussed the need for a cooperative effort between the law schools and the bar association that encourages and supports alumni of their respective law schools who are willing and able to represent middle income persons for reduced fees. This support can be in many forms, loan adjustment, free access to law libraries, faculty expert resources, training programs, etc. Chris Hardaway, a sole practitioner who specializes in family law cases, especially for low and middle income persons, rounded out the panel.

A final report summarizing the panel discussions was made by Mr. Hardaway and Ms. Howard. While there was some constructive criticism about the lack of a plan of action instead of merely a report back, there was a commitment to move forward on consideration and development of curricular changes, and an energized and renewed discussion and consideration of mandatory pro bono for law students and faculties. In particular, the University of Denver College of Law revived its effort to study and develop a plan for mandatory pro bono for the law student and faculty community of the College of Law. Several D.U. faculty also expressed a desire to pursue ways to incorporate issues of equal justice into their traditional courses.

AUSTIN, TEXAS COLLOQUIUM, FEBRUARY 23, 2001
University of Texas at Austin

*Summary Prepared by Randolph N. Stone,
University of Chicago Law School*

The Texas colloquium was well attended (maybe 150 participants) and organized. Eden Harrington from the University of Texas did a fantastic job of coordination. The most distinctive aspect of the program was the co-sponsorship with the Supreme Court of Texas. Two justices attended (including the Chief Justice) and one, Justice Deborah Hankinson, participated in the entire day-long program. Substantively, the program focused on access to justice issues for the delivery of civil legal services because, as I learned, the Texas Supreme Court has no criminal law jurisdiction. The discussions were rich and included panels of providers discussing their needs, academics and clinicians talking about teaching access to justice and professional responsibility issues throughout the curriculum, and both providers and faculty discussing possible models of collaboration. Deans and/or faculty from all nine Texas law schools as well as the Dean from the Oklahoma City University School of Law engaged in a lively panel discussion about fostering equal justice teaching, scholarship, and service. The feedback from the fairly diverse participant group was overwhelmingly positive, particularly regarding the presence of the Supreme Court coupled with significant input from the provider and law school communities. The following critiques/suggestions were raised: the absence of small group discussions; the lack of focus on the rural areas of the State; the bibliography articles should be internet accessible; attention to the indigent criminal defense delivery system should have been included; the absence of focus on the legal problems of the trans-gendered community was noted. Finally, there was concern about the lack of articulated intention to follow-up and/or create a structure to ensure the connection between the law school faculties and the equal justice community.

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CHAPEL HILL, NORTH CAROLINA COLLOQUIUM, MARCH 2, 2001
University of North Carolina

*Summary Prepared by Randolph N. Stone,
University of Chicago Law School*

The North Carolina Colloquium was a day-long event, attended by about 100 participants and organized around meeting the needs of under served populations in civil legal services and indigent criminal defense programs. Hudson Fuller, the director of public interest programs at the University of North Carolina Law School was primarily responsible for the coordination and the success of the colloquium. Surprisingly, almost half of the attendees were members of the private bar, primarily from small firms and solo practice. The offer of CLE credit was apparently a significant lure to many practitioners. I'm told that 15 or 20 law students also participated during various parts of the day.

The program began with a spirited welcome from the UNC dean, Gene Nichol, whose comments centered around the growing economic inequality in our society. Following his remarks, Martha Bergmark from NLADA spoke about the need for more accessible delivery systems and using skills other than litigation to address the needs of the poor. Next a panel of local legal service providers discussed the challenges (high caseloads, need for standards of competence, not enough volunteers, high % of folks above legal service guidelines who still can't afford private lawyers, etc.) of meeting the needs of under served populations. The next panel of providers focused on improving law school support for practitioners doing public interest work and began with Deborah Howard, the director of the law school consortium project, describing the models created at CUNY, Northeastern and Maryland law schools followed by local providers discussing the failure of law schools to teach public service values, the law school debt burden, mandating pro bono or clinic, encouraging public interest careers, etc. After lunch, the participants separated into smaller groups for presentations and discussions focusing on immigration, death penalty and community development issues. The day ended with a lively and pro-

Chapel Hill, North Carolina Colloquium

vocative discussion on what law schools could do to support students doing public interest work.

I think the Colloquium was successful in attracting a fairly large and diverse audience producing a fresh exchange of opinions and ideas. In terms of critique, the program was a UNC production with apparently little or no input and participation from the other law schools in the State. There were 3 or 4 presenters from the UNC faculty and 1 from Duke; a handful of UNC faculty members were in attendance. Another concern raised that has been mentioned in many of the other Colloquia was the lack of articulated intention to follow-up and/or create a structure to ensure the connection between law school faculties and the equal justice community. However, Ms. Fuller reports that at least 2 grant proposals are in the works to do immigration and equal justice work partnering lawyers and faculty that attended the UNC colloquium.

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BOSTON, MASSACHUSETTS COLLOQUIUM, MARCH 2, 2001
Northeastern University

Summary Prepared by Minna Kotkin, Brooklyn Law School

The Northeastern School Law colloquium was held on March 1 and 2, 2001. The conference opened with a reception and dinner for deans of area law schools on Thursday evening. Clint Bamberger spoke to the group, giving an historical perspective on legal education and equal justice concerns. Catherine Samuels, director of the Open Society Institute's Project on Law and Justice, and Robert Hirshon, president-elect of the ABA, also joined us. Jim Rowan, who organized the NE colloquium along with Claire Dalton, provoked a lively discussion among the deans by posing the question, "What would you do with a million dollars to advance equal justice concerns at your school?"

On Friday, the program began with Northeastern Dean Roger Abrams, Jim, and myself, on behalf of the AALS, welcoming the 100 or so attendees. Robert Hirshon then discussed his presidential initiative, which will focus on the theme of equal justice. One specific project is legislative and other efforts to relieve students of indebtedness so that they can pursue careers in public interest law. Getting the ABA engaged in this issue is an exciting developing.

The first panel was particularly noteworthy in that it introduced an interdisciplinary perspective to issues of teaching and scholarship about equal justice. Moderated by Lonnie Powers, Executive Director of the Massachusetts Legal Assistance Corp., the panelists - Randy Albelda, a professor of economics and author of *The War on the Poor*, Barry Bluestone, a professor of political science and author of *The Boston Renaissance*, and Thomas Shapiro, a professor of sociology and author of *Black Wealth/White Wealth* - spoke about their research. Among the topics discussed were inequality in wealth accumulation, barriers to affordable housing, and women and welfare policy. This panel emphasized the need to broaden our thinking about equal justice strategies.

We then broke up for two sessions of small group presentations and discussions. The first was divided substantively, with panels on

Boston, Massachusetts Colloquium

housing/ economic development, criminal law, family law, health/education/welfare, and immigration/globalization. In each group, there were presentations by faculty and legal services providers. The second small group session was thematically organized, and there were panels addressing four topics: networks linking law schools and practitioners, curricular innovation, scholarship and research opportunities, and development of institutes and centers. The mix of thematic and substantive subjects provided an excellent structure for the Colloquium.

At the concluding large group session, Jim Rowan elicited recommendations for future action developed in the groups. These included: developing faculty/legal services networks that are institutionalized at the law schools; actively working with the ABA on student loan relief; exploring mandatory pro bono requirements; making a longitudinal commitment to students pursuing public interest careers; and developing public center centers to build community in the law schools. The day ended with a moving address by David Hall, former dean and now provost at Northeastern, who spoke about the need for laws school to incorporate notions of justice and equality as a thread that runs throughout the curriculum and the work of the faculty.

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BERKELEY AND SAN FRANCISCO, CALIFORNIA COLLOQUIUM, MARCH 16-17, 2001
University of California at Berkeley, University of California at
Davis, and University of San Francisco

*Summary Prepared by Stephanie Wildman,
University of California at Berkeley*

Access To Equal Justice: A Dialogue Among the Bench, The Bar, and
the Academy

UC Berkeley School of Law (Boalt Hall), UC Davis School of Law,
and USF School of Law Contributors to this report: Maggie Dundon,
Bill O. Hing, Donna Maeda, Stephanie M. Wildman

The Northern California colloquium was very successful. The interest among law schools, service providers, the bench, and many from the private bar was tremendous. Representatives from every Northern California law school attended: USF, Boalt, UC Davis, Hastings, Golden Gate, New College, Santa Clara, Stanford, McGeorge, as well as a faculty member from University of Nevada Las Vegas. Old and new friends from the bay area law schools gathered with representatives of the bench and bar including many local superstars among service providers. Organizations represented included the Asian Law Caucus, ACLU, Immigrant Legal Resource Center, Lawyers' Committee for Civil Rights, State Bar, SF Bar Association, CRLA, National Economic Development and Law Center, Contra Costa County Public Defender, National Center for Lesbian Rights, Legal Services for Children, Public Interest Clearinghouse, and Equal Rights Advocates.

Fifty folks inaugurated the conference with dinner Friday evening at USF, while more than 120 attended sessions on Saturday at Boalt. The deans from USF, Boalt, and Davis played prominent roles throughout the agenda.

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Friday Evening Session

The dinner on Friday night was beautiful and inspiring, moderated by Jacqueline Ortega, Assistant Dean for Student Affairs. Dean Jeff Brand introduced the guest speaker: Hon. Cruz Reynoso. Justice Reynoso has experienced access to justice issues from every angle: the bench, private bar, legal services, the academy, foundation world, and now the US Civil Rights Commission. He didn't mince words, challenging us all to do more, while maintaining his usual optimistic outlook.

Saturday Sessions

Welcome

John Dwyer, Dean of Boalt Hall, welcomed the audience and talked about the importance of institution-building for increasing access to justice. He discussed the role of law schools in this project and talked about innovative clinical programs and the Center for Social Justice at Boalt Hall.

Dean Rex Perschbacher from the University of California, Davis, School of Law, welcomed the audience and stressed the special responsibilities of public law schools as public institutions for creating equal access for students, staff, faculty and communities. According to Dean Perschbacher, law schools are responsible for 1) creating learning environments to prepare students for leadership in a democratic society; 2) engaging consciously with developing resources (as community's greater interests and opportunities); 3) accountability to the public—to have processes that are open and above board; and 4) consciously to take on public responsibilities and roles.

Professor Stephanie Wildman, Director of Boalt Hall's Center for Social Justice, pointed out that many students attend law school with an interest in social justice. She suggested that law schools should not destroy that interest. Professor Wildman made the connection between diversity in law schools to the issue of access to justice.

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Plenary I: Challenges to Achieving Access to Equal Justice

The Honorable Claudia Wilken, U.S. District Court for the Northern District of California, moderated this panel.

Mary Viviano, Legal Services Outreach, State Bar of California, offered an organizational/institutional perspective. She first talked about the system of providing legal services for low income people on civil matters. In California, there is approximately one legal service attorney for every 12,000 people eligible for public legal resources. In 1980, there was approximately one legal service attorney for every 5,700 low income people; in 1990 the numbers were one for every 10,000. With a new California funding source of ten million dollars, the state will spend approximately \$1.82 per low income person for these services. In contrast, Minnesota, the leader, spends \$15 per low income person. The average in the U.S. is \$2.26 per low income person; in England, the figure is \$26 per poor person. Other countries such as the Netherlands, Germany, and France similarly spend a much greater amount than the U.S. In this country, approximately one half of the funding for these legal services comes from the government. The largest government source is Legal Services Corporation, which provides \$32 million to California. Although incoming President Bush has continued this funding for the current year, Viviano is concerned about the push to reduce this amount and competition for funds.

In addition to financial resources, Viviano addressed human resources including pro bono volunteers and legal service programs. She raised concerns about the “graying of legal services.” A large proportion of public lawyers began work in the 1970s. Most public lawyers are either recent law school graduates or veterans of over twenty years. Viviano sees the large loan debt shouldered by law school graduates as a factor in this problem.

Viviano ended her presentation with a report on client need in California. In the state, there are 7.2 million low income people in comparison with approximately 5 million in 1990. A very large number of children in the state live in poverty. Conditions of poverty are complicated by such factors as language barriers and immigration issues. Viviano reported that over one-half of people in family law cases are unrepresented by lawyers.

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Following Viviano was Bernida Reagan, Executive Director of the East Bay Community Law Center (EBCLC), who offered a legal service provider's perspective on the issue of equal access. EBCLC was started by Boalt Hall students; over 600 alumni/ae have worked with the Center. EBCLC is the primary direct services legal aid center in Alameda County. In addition to marshaling services for low income people, EBCLC supports people in law school by providing clinical education. EBCLC takes a great number of housing cases; they receive approximately 100 calls per day about this issue. Because of gentrification and steeply rising rents, people are displaced from their homes at an alarming rate. Reagan discussed the ways that this is changing Oakland as people are pushed out into different communities. EBCLC holds approximately 100 tenant workshops per year with 20-30 attendees at each. Not only does the Center train private attorneys and link them to community centers but also provides the opportunity for information-sharing between people facing the same issues.

EBCLC offers holistic and comprehensive services by addressing not only specifically legal issues but also issues in education, environmental justice and other areas. Reagan commented on the relationship between the Center's work in housing, HIV/AIDS, and workers' rights. She talked about the great need for youth services. She also discussed the challenges of helping students from varying backgrounds to work with low income clients.

Reagan concluded her talk with constructive suggestions. In addition to work on expanding resources, she urged better connections between regional pro bono initiatives; increased work on organizing low income people, legislative and policy efforts; the development of broad-scale strategies, systems and institutions; and capacity-building and best-practices models for organizations to develop more effective ground-level work.

Richard Odgers, from Pillsbury Winthrop LLP, spoke on the role of corporations and corporate law firms in increasing access to justice. According to Odgers, the lack of support for public interest law by the bar has reached crisis proportions. He believes that members of the legal profession have a duty to do what they can to contribute to improvements in society. While the need for public interest lawyers has grown exponentially, support for this kind of law has remained static.

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The problem has been exacerbated by the growing gap between public interest and private bar salaries. Odgers stated that never before in history have the salaries of the newest attorneys been over 150% greater than those of the most experienced public interest lawyers.

Odgers attributed these problems to a fundamental change in attitudes of lawyers about the profession. In the past, attorneys in private practice generally felt they had obligations as professionals to support the public interest bar. Odgers has observed the gradual disappearance of the belief that the profession entails such responsibilities. According to Odgers, in 1999, the top one hundred highest grossing law firms spent an average of eight minutes per day on pro bono work. Between 1989 and 1999, those firms saw a 56% revenue increase in average per-partner profits.

Odgers urged that law students be instilled a renewed sense of what it means to be a member of the profession for long term changes. In the short term, he believes that leadership in the judiciary and corporate general counsels as the only two groups that would be able to guide firms in the right direction. One suggestion would be for law firms to contribute a percentage of their gross revenue to support public interest work.

Dean Rex Perschbacher from UC Davis followed Odgers' presentation. Dean Perschbacher pointed out that while we are living in a period of unimaginable wealth and comfort, there has never before been less public support for what would be necessary to guarantee public justice for all. He argued that while we need more than incremental changes, law schools can only do small fixes for the following reasons:

1. Law schools cannot provide the entire solution to address the need for public legal services. Not only is there a limited number of law schools; each school is limited in the amount of legal services it can provide. Clinical programs are very expensive and offer a limited number of spaces for students and clients. Dean Perschbacher argued that the medical school modes for providing health services cannot work for law schools because of the different levels of government support for each type of institution.

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2. Law schools embody many different interests and must provide an academic program to meet these varied needs. Not all law students wish to participate in clinical programs and the disparity between often-wealthy law students and poor clients can be too dramatic. In addition, law schools' nine-month calendar is not set up to meet the year-round needs of clients.
3. Law school involvement in specific clinical programs may lead to political backlash. If such clinical programs are highly successful, they may become targets of legislative backlash.
4. Support from outside law schools is limited. Without greater funding for law school clinics, public interest legal education is at risk.

Perschbacher concluded with comments about what law schools can do in the face of these problems. Law schools are places to think about law and justice. Before they are caught up in the day-to-day tasks of law practice, law students have the luxury to think about the profession. Law schools can provide the opportunity for students to take courses that speak to the question of justice. In addition to clinics, law schools can offer public interest seminars and pro bono programs to support the public interest tradition of law. These provide the first models for students to see what their role in the profession might be. Faculty members are important for providing models for dedication to public interest law.

Judge Wilken concluded the panel by remarking on the limited funding for public defenders in the criminal justice system.

Following this plenary session, nine small group discussions were held on the following topics: Racial Justice/Critical Race Theory; International Human Rights/Immigrant Rights; Families, Youth, and Education; Constitutional Law; Community Economic Development/ Bankruptcy; Collaborations between Law Schools, the Courts, the Bar, and Service Providers; Institution Building; Prisoners' Rights/Criminal Procedure; and Providing Rural Legal Services. Reports for several sessions follow.

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International Human Rights/Immigrant Rights

Richard Boswell, Professor at Hastings College of Law, discussed the importance of clinics for legal education. He questioned presumptions about what law schools teach and the order in which courses are taught. He also challenged the argument that clinics are overly expensive, suggesting that if the overall process of legal education was rethought, expenses might be redistributed according to a different set of priorities. Boswell emphasized the importance of encouraging participation in public interest law by giving first year students clinical experience. He discussed the success of his Immigration Law class for first-year students, which contains a clinical component. In his experience, this type of clinical experience during the first year sparks interest by making the issues real to students.

Lucas Guttentag from the ACLU's National Immigrants' Rights Project discussed his work on impact litigation in immigration law. Impact litigation in this area is especially challenging because immigration law courts are generally deferential to the federal administrative agency complex due to the foreign policy and political issues involved. However, because Immigration and Naturalization Services and the federal government continue to violate the law, significant class action cases have been necessary, particularly in the areas of asylum, work authorizations, detention and custody of minors. 1996 saw the passage of legislation that has made it even more difficult to get such cases into court. Guttentag is now involved in challenging those provisions that limit the ability to bring these cases to court. He predicts that the right to go to court will be sustained because of constitutional protections of individual rights. However, clients fighting deportation have no right to counsel unless they have committed a crime. Guttentag argued that the right to appointed counsel is necessary for these clients.

Mark Silverman, Directory of Asylum Policy for the Immigrant Legal Resource Center in San Francisco, addressed the role that lawyers can play in community organizing efforts. He stressed that lawyers need to take a secondary role to community organizers and leaders because of the priority of building the internal power of the constituency group. For example, he offers free legal consultation after community organizers' events to attract attendees. His consultations

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occur after the main event so that people will stay for the entire presentation and discussion. He also offers more intensive legal presentations to community leaders to increase their knowledge and skills; he also participates in strategy meetings in order to offer perspectives on how the law operates. He sees lawyers' role as offering tools for community leaders. Silverman stressed that his model supplements rather than replaces direct legal service and litigation models for social change.

Like Richard Boswell, Constance de la Vega, Professor at the University of San Francisco School of Law, stressed the importance of clinical experience for first year students. Her work involves the use of international human rights law and international law as mechanisms to promote equal justice. This work includes pushing legislation that embodies human rights standards. de la Vega offered five ways her students have been involved in order to present ways students can participate in this type of work: 1) Students can assist lawyers by doing research and writing amicus briefs. For example, one of her students wrote a paper on executions of juvenile offenders that a public defender in Nevada used. de la Vega's students have also helped to prepare witnesses to testify in cases. 2) Students can assist with advocacy efforts using international mechanisms. Her students have written and presented reports to the Commission on Human Rights on the juvenile death penalty as well as other governments' willingness to change their policy and practice in such cases. 3) Students can participate in international forums that discuss international human rights issues. 4) Her students have participated in the broader issue of the death penalty, showing how standards are used arbitrarily. They have also looked at the importance of treaties in making claims about the death penalty. 5) Her students have been involved in creating arguments that migrant workers' right to life is violated in the carrying out of immigration policies. For example, under Operation Gatekeeper, 1500 people have died at the California border. Students in her clinical program have gathered information to develop procedures for examining this problem. They have also brought information to the U.N.'s Special Rapporteur to encourage attention on this issue.

Laurel Fletcher, Associate Director of the International Human Rights Clinic at Boalt Hall, discussed what new lawyers can do to continue to develop their public interest law commitments. She noted that

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there is a transfer of values during the law school process. Most students go into private practice regardless of the variety of extra opportunities that are made during the first year. Fletcher argued that the first year curriculum contributes to the problem by teaching students to “think like a lawyer,” which encourages students to be bloodless technicians rather than human beings. Fletcher encourages greater pro bono involvement. She also talked about several current efforts in that encompass a hybrid impact litigation/direct services approach to public interest law. Efforts to use U.S. courts for Holocaust survivors’ claims against corporations may bring substantial fees, attracting law firms to these kinds of cases. More complicated are lawsuits in the U.S. against multinational corporations for human rights violations because law is not settled in this area. Fletcher summed up these efforts as ways to expand the field of public interest law and inculcate different values in lawyers.

Constitutional Law

John Denvir, USF, started off with the basic assertion that we should not assume that everyone is cut out for public interest, and we don’t all have the “injustice gene.” This turned out to be a controversial assertion, but it seemed his main point was that some people are driven or will be driven to do this kind of work, while others are not. Both types can be good people, and a realistic social justice model would accept this. On Denvir’s model, law students should be introduced to the major issues of access to justice, rather than focusing uniquely on one theme, because people are very diverse and their interests are as well. Today’s law school climate does not provide “stepping stones” to the public interest career, and as a result students can’t see how the small steps will make up a holistic career. He would like to see bridge programs between school and practice, so students don’t feel like they are simply the province of “Career Services” once they leave school but rather are still connected with legal education. Another option is seeding people into private practice. This moves beyond the traditional model of two types of legal services: state-paid staff attorneys and pro-bono work. These would essentially be legal aid solo practitioners.

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Tobias Wolff, UC Davis, changed the direction of the conversation to a more generalized look at the process of socialization in law schools. He announced his comments as “foufy,” which other panelists and participants re-cast as both “fluffy” and “floppy.” Regardless of its air content, his thesis focused on teaching students the power of legal arguments and preventing the alienation of the law student’s individual “voice” through showing the value of that voice. This would focus on the relationship of students to the world of law and teach them what voices have power in the law. He related an anecdote about Betty Fletcher’s expression of her voice in the law.

Picking up on that theme, Margaret Russell, Santa Clara, talked about socialization pressures of law school and academia in relation to the difficulties in the execution of the “voice” model. Often, she hopes that she can achieve this through “conversion experiences,” some kind of “lightbulb” experience that she can only spark but cannot directly create. How can we harmonize the voices notion and understanding/teaching the difficult doctrinal issues of constitutional law? The mainstreaming process happens at professor level too, and law professors in the classroom should be scholars rather than advocates of a particular position. This brings up the general question of the appropriateness of the teaching model to pass on the social justice mentality. How can it be done neutrally? It is especially difficult when judicial & political control of the vocabulary of an issue, such as affirmative action, pervades the classroom. Is neutrality in this scenario allowing your own voice-as a professor-to be “captured”?

Discussion focused on the issues of socialization in the law schools, and how to engage students in social justice issues without being polemical. There is a tension between teaching everything you need to teach doctrinally and everything you want to teach in relation to access issues. In the first year, the preference is for doctrine as well as discipline. This results in the “pollution of 1st years” and it may be crucial to get them inspired early on. They are still reeling from a cycle of trauma and recovery that they don’t think they can escape from. In the undergraduate teaching of con law in the military, the context is quite different. It is required, as graduates will soon be required to apply it in combat and non-combat situations. They will be leaders, and they have the increased responsibility because of judicial defer-

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ence to military decisions. One way to make these issues come alive-to allow students to understand the disconnect between good and bad decisions is the context of decisions and realities vs. context-free teaching. Often law professors teach completely devoid of context, which increases the feeling of alienation. This connects, again, to the professional goal of mainstreaming, which requires a certain blindness to the reality of your actions. One way to resolve this is to encourage an awareness that all branches of the government apply constitutional law, not just the courts. The notion of “court-worship” contributes to alienation.

Wolff highlighted at the end that the importance of history, and that much of it may be new to students, cannot be underestimated. He also emphasized that politics is not separate from scholarship and engagement of both in the classroom is not “external.” One way to approach the problem, and to discuss the ideas of fairness and justice is to describe the whole of constitutional as being composed of some situations where the government is allowed to be unfair and sometimes when it is not. This avoids shoving viewpoints into “fair” and “unfair” corners, but rather encourages and exploration of the why/why not permissible questions.

Plenary II: Envisioning a Future With Access to Equal Justice

The Honorable Marsha S. Berzon, United States Court of Appeals for the Ninth Circuit, moderated this plenary session.

The first speaker was Michael Harris from the Lawyers’ Committee for Civil Rights Under Law in San Francisco. Harris presented an overview of case law, current trends, and suggestions for what needs to be done to increase access to justice. He reviewed shifts in constitutional analyses of racial issues and the use of strict scrutiny by the U.S. Supreme Court in affirmative action cases. Harris pointed out broader trends in reversals of rights for people of color. In the area of voting rights, ten years ago redistricting efforts focused on maximizing voting rights for minorities in contiguous and compact areas. In current approaches to redistricting, any hint of race as a factor will subject the efforts to a challenge. In Eleventh Amendment jurisprudence, such as the recent case involving the Americans with Disabilities Act, the Su-

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preme Court has limited individuals' power to sue states in federal courts. As a result of these trends, Harris pointed out that litigation no longer provides a strong mechanism for increasing access to justice. In addition, efforts of organizations such as the Federalist Society have been effective in their efforts to undermine civil rights gains of the past thirty years. The Federalist Society has been effective in gaining power in the legal profession, law schools, in gaining political seats, and in shaping appointments of judges. Harris argued that more strategic organizing is needed to develop both political and legal strategies in order to establish an agenda rather than always responding to moves from the right.

Following Harris, Tanya Neiman, Director of Volunteer Legal Services for the Bar Association of California, discussed holistic advocacy as her vision for poverty law. For poor people, theoretical access to federal courts does not translate into real access. With severe cutbacks in legal services, "access" to a lawyer typically means very brief advice. Neiman next addressed three major questions:

1. Who needs justice? Neiman pointed out that nearly everyone needs more justice; most people cannot afford quality legal services. Middle class and working class people are important allies for the struggle to increase legal access. At the same time, new technological innovations may provide increased access to legal services for some but may leave poor people further behind.
2. Who can provide justice? Neiman urged a re-thinking of providers beyond the traditional paid staff in legal services. Communities include many kinds of justice workers who might be mobilized to create systems for better service.
3. What do we mean by justice? Neiman also urged a move toward solving clients' real needs as opposed to narrow legal problems. Poor people need to be able to move from poverty to self-sufficiency. Comprehensive programs will be more helpful than highly specialized, technical aid for crisis situations. Legal service providers ought to work with other justice workers to link services.

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Jose Padilla, Executive Director of California Rural Legal Assistance, Inc., followed Neiman's presentation. Padilla commented on the decrease in general interest in issues of poverty and a corresponding decrease in numbers of people who are committed to working on these issues. He also summarized changes in proportions of legal service providers per poor people in the state as well as current needs in access to legal services. In 1996, for example, there was one legal advocate for every 33,000 farm workers in California. Cutbacks in funding have added to the decrease in interest in this kind of law. In addition, many formerly effective legal tools are no longer available. Padilla stated that because class action suits are too controversial, his organization can no longer file them. They are also unable to serve undocumented people. Like Neiman, Padilla urged a bigger vision for what justice can be. He spoke of the need for courage and creative approaches that require strong leadership and risk-taking. He also invoked the memory of Ralph Santiago Abascal, a legendary legal services attorney, who has inspired many.

The final speaker on the panel was Jeffrey Brand, Dean of the University of San Francisco Law School. Brand pointed out that private law schools also have an obligation to contribute to solutions for the problem of access to justice. Law schools provide the necessary first step: the education of lawyers. Law schools can provide the environment for discussions about law and justice and nurture students' passion to do good works. At USE, efforts to create an environment that promotes justice have been met with an enthusiastic response. Students do have the desire to contribute to justice; law schools ought not extinguish that desire. Brand gave five suggestions for moving this vision forward in law schools:

1. Law schools must give a clear and consistent message in mission statements, public statements, and other self-representations that promoting justice is important as well as academic excellence.
2. Justice must be made a critical part of the curriculum and a constant theme of everything the law school does.

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3. Service opportunities must be provided so that students have contact with marginalized people who do not have adequate access to justice. Such opportunities show students the role they can place in society and give them a sense of their responsibility in the project.
4. Law schools must understand the global imperative of struggles for justice and to come to grips with the importance of universities in the international context.
5. Ethics must play an important role in the entire law school curriculum. Brand urged the development of a national agenda for multidisciplinary teaching of legal and applied ethics.

Brand ended his remarks by offering the metaphor of jazz for promoting justice. Each solo works within a chord structure to create the texture and the beauty of the whole work.

Judge Berzon concluded the panel with remarks about her observations from the bench. Each Ninth Circuit judge hears approximately 450 cases per year. The high volume of cases affects what each judge can do. As a result, they rely on attorneys' work. Clients are not well served by this reliance when judges cannot focus adequate attention on each case. Judge Berzon also commented on bad economic incentives that work against the best legal representation for clients. The highly bureaucratized nature of rules of civil procedure and appellate procedure and high costs of litigating exacerbate the problems of lack of judges' time to do careful research and thoughtful legal analysis.

Eight small group sessions followed this plenary, including Environmental Justice/ Tort Law; Criminal Justice/Criminal Law and Procedure; Employment Rights/ Sex Discrimination and the Law; Housing Issues/Property /Intellectual Property Law/; Institutionalizing a Philosophy of Public Service at Law Schools; The Administration of Justice in a Time of Changing Demographics/Civil Procedure/Evidence; Sexual Orientation/Legal Issues Facing the LGBTTS Community; and Special Issues of Rural Communities. A report for one of those sessions follows.

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Administration of Justice in a Time of Changing Demographics/Civil Procedure/Evidence

Mark Aaronson, Professor at Hastings College of Law, opened the session by providing some demographic information about access to courts and lawyers in California. He commented on connections between failures in other social institutions such as educational and health systems and the problem of legal access. Limits in knowledge and familiarity with legal institutions are exacerbated by issues of acculturation, language and poverty.

Following Aaronson was the Honorable Leslie Tchaikovsky of the U.S. Bankruptcy Court in San Francisco. Judge Aaronson reported on a 1998 study on bankruptcy. She discussed bankruptcy as a middle class remedy; truly rich people and poor people do not need bankruptcy court. Judge Aaronson also commented on recent moves to change bankruptcy laws. The media presents the question of why so many people have been filing for bankruptcy in an era of prosperity. Judge Aaronson pointed to changes in economic structure and the resulting loss of well-paying skilled industry jobs and their replacement by minimum wage service jobs. The lack of health insurance also pushes people into bankruptcy. While the media point to credit card abuse as a major cause of bankruptcy, the larger economic picture suggests otherwise.

Norman Spaulding, Professor at Boalt Hall, next commented on his work on the litigation of complex group harms and the importance of procedural issues for access to justice. Spaulding posed the question of whether due process rights exist for groups and pointed to the significance of that question for class action lawsuits. He discussed the 1940 *Hansberry v. Lee* case, noting the demographics that shaped the context of the case. At the time, 80% of Chicago was covered by racial covenants as a strategy by a dominant group to control demographic shifts in the city. The Illinois state courts enforced the covenants and bound *Hansberry* despite procedural irregularities. The U.S. Supreme Court reversed by considering procedural grounds for setting limits on group litigation.

Spaulding discussed the importance of class action lawsuits for civil rights cases for historically subordinated groups including pris-

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oners, aliens and minorities. Current assaults on procedure damage mechanisms for empowerment. He also pointed out that contemporary libertarian claims that law is now intruding into culture are belied by the Hansberry case, which illustrated the intertwining of law and culture. People attempting to resist demographic changes at that time attempted to use law to resist cultural change.

Spaulding also talked about recent efforts to restrict access to courts in the areas of prison litigation, anti-terrorism, death penalty law, and immigration law. For example, attempts to gain restrictions in judicial review for INS cases and heightened pleading standards for civil rights affect access to courts. Spaulding concluded by pointing to the importance of protecting mechanisms that give open access to courts and resisting criticisms about too much litigation and affecting cultural change by law.

Eleanor Swift, Professor at Boalt Hall, spoke next on connections between race and class, demographic changes, and current changes in the use of rules of evidence. Swift discussed the impact of race on the development of urban areas of high poverty. Racism blocks grand scale efforts to address the needs of urban poor people who are disproportionately Black and Latino. Racism thus contributes to community poverty in contrast to individual poverty. In contemporary economic structures, urban poor people are not exploited for labor. Instead, they become expendable in terms of the economy when labor systems cannot or will not use them.

Swift also discussed the changing role of rules of evidence and their relevance of issues of social justice. While judges apply evidence rules, they were created for lay decision makers. With the growth of arbitration and alternative dispute resolution strategies, litigation may be used less for solutions to problems of urban poor communities. Instead the focus may be on organizing and making communities political actors.

Trial and appellate courts currently show less interest in applying evidence rules. Instead, judges use discretion to admit or exclude evidence.

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Plenary III: Celebrating Steps Toward Access to Equal Justice

This session was moderated by the Hon. Ken Kawaichi, Alameda Superior Court. Author Charles Reich was the first speaker. He talked about the vast and power forces that currently devalue all efforts to develop community. Wealth is more important than justice; anything that cannot be commodified is held to be valueless. Rampant individualism complements this focus on wealth and undermines efforts to work on issues of justice. In addition, in a bureaucratic society, society becomes a place of battle for position where large institutions are significant. This worldview focused on wealth and individualism is supported by well-organized think tanks that are currently very active in shaping judicial appointments. The judiciary diminished mechanisms for access to justice including habeus corpus, particular remedies, and appeals.

Reich urged progressives to “do ideology” and to sell it. Society has become a place of anger, discontent and violence filled with feelings of injustice. Justice is necessary for bringing back ideas of the common good and working for the health of society. Reich believes that we are at a time when we must make an explicit choice to spend resources on justice and bring justice into the realm of necessity.

Following Reich was Rachel Moran, Professor at Boalt Hall, who wove themes from the day’s presentations together. Moran quoted John Stuart Mill, who called for engaged citizens who care about interests beyond their own and who see that what is of benefit to the public is to their benefit. She also spoke about declining rates of public spiritedness. Within law, this is manifested in drops in the belief in civic obligations of the profession and falling support for legal services, even in times of great wealth. People have become increasingly polarized because of the lack of community and see each other in competition rather than cooperation.

Moran linked the politicization of the judiciary to these social ideas. Judicial nominees are treated as political figures at the same time that law is seen as merely a business. She posed the question of how to rebuild community and raise social capital across differences. Law schools can be places to rebuild community. They provide shared experiences and common commitments. Public law schools provide public spaces for thinking about law collectively. This ideal is challenged by disinvestment in public schools. Moran recalled suggestions by the day’s

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speakers about building collaborative arrangements across law schools, service organizations, and the private sector to counter this trend.

Moran also spoke about her study on student responses to their legal education and legal socialization. Many students, especially those who come to law school to work for justice, find the command to “think like a lawyer” with detachment to be alienating. Moran recounted a student’s comment on learning about the use of the commerce clause for civil rights enforcement in Constitutional Law class. With the erasure of the fact that Black people needed to plan ahead for every trip, down to such details as where to sleep and to find rest rooms, the discussion as an abstract exercise in federalism led to easy ridiculing of significant issues. Moran stressed that humans are not just about abstraction and reason but also about attachments and feelings. Passion motivates movement and is necessary for justice work.

Bill Ong Hing, Program Director of Legal Clinics at UC Davis Law School, discussed the importance of creating strategic alliances. He encouraged law schools to commit to collaborating in order to share ideas and to learn from each other. He also finds hope in progressive judges including those who participated in the day’s events. He reminded the audience that such judges need their support. He also encouraged judges to communicate about legislation they feel would help them to administer justice more fairly. Hing suggested that the biggest allies for justice are clients. Client communities can help; they demonstrate political activism in more ways than voting and mass protests. For example, in the areas of welfare rights and immigrant rights, client groups learn and practice community involvement and civic participation. Hing encouraged other forms of collaboration between law schools and different groups. Scholarship, clinics, and courses, including alternative models such as legal services courses can teach students to practice law in ways that support communities.

Conclusion

Organizers Bill O. Hing, Jacqueline Ortega, and Stephanie M. Wildman thank everyone who helped make this conference a success. Priscilla Battis, Administrator for the Boalt Center for Social Justice, kept Saturday running smoothly. Professor Joan Howarth, provided key organizing assistance.

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SYRACUSE, NEW YORK COLLOQUIUM, MARCH 21-22, 2001

Syracuse University

*Summary Prepared by Brenda Smith, American University,
Washington College of Law, and Leslie Bender,
Syracuse University College of Law*

The Syracuse University College of Law, in conjunction with the Association of American Law Schools, held its Equal Justice Colloquium on March 21-22, 2001. On Wednesday evening, March 21, 2001, the College of Law held a wine and cheese reception for out-of-town Equal Justice Colloquium speakers, local colloquium organizers and law clinic directors. They were joined at the reception by AALS Executive Director, Carl Monk. A dinner in the College of Law Faculty Lounge followed the reception. In addition to a much-spirited discussion, the dinner provided organizers with the opportunity to update the out-of-town speakers on the program for the following day, give them packets of relevant materials, and ask for suggestions for conducting the facilitated break-out groups.

The colloquium was a highlight of the College of Law's theme for the year, "Lawyering for Social Justice". Syracuse's colloquium explored "Law Schools' Responsibilities for Social Justice." Over 60 people pre-registered for the conference and others dropped in and out during the day as their academic schedules permitted. Representing the AALS were Professor (and former Dean) Carl Monk, Executive Director of the Association of American Law Schools, and Brenda V. Smith, Associate Professor at the American University, Washington College of Law and a member of the AALS Equal Justice Initiative Steering Committee.

After an informal breakfast and introductions, a panel of three experts outlined different approaches to enabling law schools to meet their responsibilities for creating equal access to the legal system and social justice. Stephanie Wildman, Visiting Professor of the University of California, Berkeley School of Law and Director of the Boalt Hall Social Justice Center, began the panel by describing her work in that center. The center provides a central place to coordinate the law fac-

Syracuse, New York Colloquium

ulty and law school community members (students, staff, practitioners) who work on social justice matters. The Center sponsors regular social justice speakers from legal academia and practitioners; conducts social justice reading groups for first year and other law students; organizes sections of the law school curriculum; and is developing a certificate program. Professor Wildman encouraged interested participants to check out their website at <http://www.law.berkeley.edu/institutes/csj/>.

Deborah Howard, Director of the Law School Consortium Project, was the second presenter. She spoke about the various ways in which law schools have created networks and resources to support the social justice work of sole and small firm practitioners. The Consortium Project, funded by the Soros Foundation, creates clearinghouses of information for social justice practitioners, including information about substantive law, procedure, office and case management, and uses of technology. Ms. Howard explained how something as simple as creating an e-mail listserv for social justice practitioners begins the process of networking and providing support systems for people who want to do social justice work, but feel that they do not have the resources. Ms. Howard also encouraged interested people to view the Law School Consortium Project's website at <http://www.lawschoolconsortium.net/>.

The final presenter on the panel, Professor Stephen Wizner, long-time Yale Law School Clinic Director, asked conference participants to consider following Yale's example by establishing post-graduate fellowships for law students who want to work in the public interest when they graduate. He also described how he teaches students to write concrete business plans to present to potential law firm employers, illustrating to those employers how associates in their firms can include pro bono work as a portion of their regular case-load without jeopardizing the bottom line of the firm. Each panelist presented a unique aspect of how law schools can promote social justice work for both students and faculty. Dean Braveman moderated a lively question and answer session after the panel.

After the panel, the conference convened smaller working, breakout groups to brainstorm about the ideas presented and other creative ways that Syracuse University College of Law could promote social justice for under-served and under-represented communities.

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After a boxed luncheon for registrants, keynote speaker, Professor Lucie White of the Harvard Law School, spoke to conference participants about how “guarding borders” may end up being the antithesis of working for social justice. Professor White explained how borders can serve as a metaphor for physical borders between nations (or even hemispheres) as well as for limits of eligibility for public services or minimum standards of living. Her argument was that despite the ways we convince ourselves that borders are necessary and must be maintained for security or to protect our standard of living, they are in fact pernicious. Each time we “guard our borders,” White explained, we deny justice and access to some people in favor of others, perpetuating global and local injustices.

The keynote address was followed by another series of break-out sessions. After the second break-out groups, where participants met with different facilitators and different attendees, the conference reconvened for a plenary session. Reporters from each of the break-out groups shared their group’s suggestions for concrete ways in which Syracuse can meet its responsibility for promoting social justice. Suggestions included:

- ◆ making curriculum changes, including adding more social justice course and clinics
- ◆ creating a social justice center
- ◆ designing a certificate program for social justice “majors”
- ◆ creating networks with Legal Services and local practitioners
- ◆ instituting regular discussions with and by social justice practitioners
- ◆ establishing loan forgiveness programs
- ◆ setting up a student advisory board to make improvements to the GO program
- ◆ creating a separate physical space for students interested in social justice issues
- ◆ developing post-graduate fellowships for social justice work
- ◆ making the law school library resources available to social justice practitioners
- ◆ creating a clearinghouse of briefs and memoranda of law to share with social justice practitioners.

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Conference organizers used technology to create a visual of all of the suggestions at the concluding plenary. The list will be distributed to conference registrants.

Following the colloquium, and motivated in particular by the Law School Consortium Project model, Syracuse's Executive Director of Legal Services, the Pro Bono Coordinator for the local Bar Association, the Executive Director of the Lawyers' Referral Service, and the Associate Dean of the College of Law began a series of meetings designed to form a resource network to support regional sole and small-firm practitioners who need assistance providing legal services to traditionally under-served and unrepresented populations in the region. Once the project is further along, the Syracuse cohort plans to re-contact Deborah Howard and see if they can join the Law School Consortium Project.

All in all, the Syracuse University College of Law Equal Justice Colloquium was a huge success. Many people both inside and outside the law school left the colloquium energized in their missions to work for social justice and equal access to a fair legal system.

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ST. LOUIS, MISSOURI COLLOQUIUM, MARCH 23, 2001

Washington University

*Summary Prepared by Dean Hill Rivkin,
University of Tennessee College of Law*

The overall Colloquium was introduced by Karen Tokarz, Director of the clinical program at Washington University, and the lead planner for the event. She discussed the litany of legal needs in Missouri and surrounding areas and welcomed the 217 participants at the Colloquium. In attendance were 40 faculty and staff from Missouri and law schools in surrounding states, 50 legal services lawyers, 25 public defenders, 40 government and public interest lawyers 20 people from area community organizations, 15 judges, and 25 Clinic students. Karen noted that the Colloquium was designed to highlight existing legal needs, to document equal justice work, and to strategize about and develop new collaborations to build on the arrangements that have already been forged between law schools and the area equal justice communities.

The first session, Challenges to Achieving Equal Justice, led off with a talk by Mike Wolff, a Justice of the Missouri Supreme Court. He emphasized the power of the legal profession as an entree to economic and social justice and discussed the early history of federally funded legal services. He noted that a formative goal was to place the best students in the field for a period of time and then expect them to take the ideals and values that they forged doing legal services work into the private law firm sector.

Sandra Moore of Urban Strategies followed. A former legal services lawyer, Sandra discussed the work of her firm in urban development and affordable housing. She highlighted the myriad of access to justice issues in her work. She detailed the host of “justice” issues that inhere in her work (e.g., issues concerning putative fathers, the drug-addicted elderly, etc.), and urged that these issues can only be addressed effectively through creative collaborations among lawyers, community people, university people, and others. She noted the lim-

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ited value of litigation (“it’s too slow”) in resolving these systemic concerns.

Dan Gralike, the State’s Deputy Public Defender spoke next. He elaborated on the various meaning of “justice” and concluded that it’s how we apply justice, not define it, that counts. “It’s how we practice what we know” that makes the largest difference. He lamented the significant differential in salaries paid today by private law firms compared to what his office is able to pay young lawyers (and old) lawyers.

Dionne Miller, the Director of Legal Services of Eastern Missouri, called the Colloquium “an important conference. Although many at the Colloquium have “practiced” networking for quite some time, it has never been enough to meet the pressing needs of clients. Welcoming the “historic” opportunity to cross-fertilize, Dionne stressed that state studies have shown that 80% of the legal needs of the poor in Missouri are not met. She said that the organized opposition from the right—the Farm Bureau, etc.—do not understand the mediating role that law plays in our society and the importance of according poor people equal rights in the legal system.

The final speaker was Greg Casey, a Professor of Political Science at the University of Missouri. He is engaged in a project to evaluate the effectiveness of the delivery of civil legal services in Missouri. He lamented the fact that there is a “complete void” in the academic literature on issues of delivery of legal services. He strongly recommended that the academics in the room collaborate on interdisciplinary projects on the multitude of issues around the delivery of legal services.

The second plenary session was entitled “Envisioning a Future With Equal Justice.” Ed Roth, a lawyer who is the President of the St. Louis Board of Police Commissioners, led by deconstructing the various definitions of justice: decisional, transactional, and organizational. He focused on the lawyer, talking about the various qualities that lawyers must possess to work for justice, qualities like discipline, patience, understanding, collegiality, etc. He recounted what Jerry Brown, the Mayor of Oakland, said in a recent speech on “Equal Access to Justice”: the key to equal justice is everyone doing what is within their grasp.

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The next speaker was Jacqueline Kutnik of the Childrens' Legal Alliance, a legal services project for children and families. She discussed the "holistic" model of representation that her project follows in providing educational advocacy. She discussed the systemic issues of housing and jobs that affect education, and the persistence of mental health issues afflicting many school children. She discussed her collaborative work with the Youth Advocacy Unit of the Public Defenders Office, her training with the juvenile court, and her supervision of JD-MSW students who engage in research designed to support impact litigation. She particularly emphasized the need for more legal and other players in this critically dynamic field.

Michael Duffy of the Community Economic Development Unit of Legal Aid of Kansas City discussed his lawyering work in inner city KC. He recounted the time he spent visiting people in their homes and talking. What emerged from this work was an emphasis on education and housing. To empower clients, he discussed strengthening existing community organizations (e.g., churches and economic justice groups), building consumer power (e.g., building access to credit and combating predatory lending), forging political power, and cultivating media power.

Rudy Nickens, the VP of St. Louis 2004, a broad-based community organization, discussed "proactive collaboration." In St. Louis, his group is seeking to identify priorities for change to be incorporated into an Action Plan embodying various systemic initiatives, e.g., fighting youth and gang violence, improving minority hiring, etc. He explained an initiative coordinated by the U.S. Attorney's Office that organized government agencies, clergy, schools, courts, etc. in an effort to combat youth violence by removing guns from the community, providing a range of opportunities for youth, etc.

Finally, Pete Salsich of St. Louis University Law School talked about a collaborative of lawyers, architects, social workers, accountants, and others to develop affordable housing in the St. Louis area. He described an interdisciplinary course that he teaches in which students from these disciplines work with community groups to develop housing opportunities. He stressed the value of students doing "fieldwork" in teams, of talking across disciplines (even when the disciplines clash), of confronting the importance of overcoming "profes-

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sional arrogance, and the signal value of “engagement” in the projects that the course tackles.

During lunch, the Colloquia participants broke up into a variety of interest groups covering the range of civil and criminal work that was represented at the conference. The groups were charged with coming up with ideas on how law schools can enhance the on-going efforts that currently exist in collaborating around equal justice issues. Karen Tokarz has agreed to share these lists in time.

There were two afternoon sessions. The first focused on technology and the opportunities available on the web for researching equal justice issues. This presentation, which was done by several members of the Wash. U. faculty, took the audience on a guided excursion through the extraordinary range of material now available for free on the web. Michael Ruiz of Southern Illinois University Law School also presented a web-based look at the Self Help Legal Center that he directs at SIU: see www.law.siu.edu/selfhelp. The purpose of this unique project is to provide a range of information to people with the goal of assisting them in the resolution of their legal disputes. Law student work at the Self Help Center by fielding an array of questions from individuals who call in for assistance. Among many benefits, Mike noted that the students become teachers in the course of their advice-giving. The Project is funded by the Illinois Equal Justice Commission and SIU Law School.

The concluding session was called “Celebrating Steps Toward Access to Equal Justice.” The former U.S. Attorney based in St. Louis, Audrey Fleissig, began by listing the achievements accomplished by her office in areas such a hate crimes, violence against women, removing guns from the streets, and bringing services to inner city neighborhoods through community policing, the creation of safe havens, etc.

Dimitri Gay of the St. Louis Municipal Courts followed with a presentation about the City’s neighborhood justice system. This system is composed of several specialized courts. These include a female drug court, a mental health court, and a “quality of life” court. The projects’ work concentrated on restoring neighborhoods through creative judicial intervention (e.g., orders of supervision). He also discussed the relationships that the project has developed with the two law schools in St. Louis.

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Barbara Glesner-Fine of UMKC Law School, a self-defined classroom teacher of subjects such as family law and professional responsibility, movingly discussed her work with other academics around the state on domestic violence issues, including a Clemency Project for women. Barbara noted that every law school in the state became involved in this single project, and its results were outstanding. Growing out of her work with the Clemency Project, Barbara helped to create a Project on Battered Immigrant Women, which brings together family violence advocates and lawyers, immigration lawyers, and others. Barbara listed six lessons that she learned in the collaborative work that she has engaged in. They are:

1. People should not hesitate to ask law school faculty members (particularly nonclinicians) to get involved. If they agree to, they will bring student resources to bear on the project.
2. Think beyond the borders in addressing the underlying issues—holistic and interdisciplinary boundaries should be expanded.
3. Build in a spiritual reserve—opportunities for reinvigorating one’s commitment. This bolstering can come from the relationships established while working on an equal justice project.
4. Be patient with collaboration—it is often messy. We should “let it happen” and provide leadership when appropriate.
5. Look for related collaborations—use your knowledge to consult with others.
6. Learn from your clients.

The final speaker of the session was Susan Rosenberg, who had just been released by President Clinton after serving a 16-year federal sentence as a political prisoner. Susan glowingly talked about the assistance—legal and otherwise—that she had received from Jane Aiken of the Wash. U. faculty and Jane’s students. She described her struggle for justice while in prison, a living, breathing existence. She urged law schools to reestablish prisoners’ rights clinics, emphasizing that prisoners, like few other groups of people, talk passionately and intelligently about social justice.

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Karen Tokarz concluded the Colloquium by noting the “countless unfinished conversations” generated during the day. She promised to help coordinate future efforts (but not too soon!). I received a letter following the Colloquium from Susan Frelich Appleton, Wash. University’s Associate Dean. She said: “The number of participants, the quality of the exchanges, and the enthusiasm of those present all exceeded our expectations. We are proud to have been part of this AALS initiative, and we hope the collaborations forged on Friday improve access to justice in Missouri.”

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LOS ANGELES AND MALIBU, CALIFORNIA COLLOQUIUM, APRIL 20-21, 2001
University of California at Los Angeles and Pepperdine University

*Summary Prepared by Dean Hill Rivkin,
University of Tennessee College of Law*

The UCLA/Pepperdine Colloquium was jointly planned by faculty members and staff at the two schools. The planning committee also included faculty from other southern California law schools. Bill Hing was the representative from the AALS Project Steering Committee.

The Colloquium began on the afternoon of April 20, 2001, at Pepperdine Law School in Malibu. Approximately 30 people attended on what turned out to be one of the few rainy afternoons of the year. The attendees spanned several law schools, including a faculty member from BYU Law School, members of the judiciary, public interest and legal aid lawyers, community activists, and bar representatives. Elliott Milstein and Dean Rivkin also attended.

The first plenary Session was entitled "Taking Court to the Streets: Developing Collaborations Among the Courts, Legal and Social Services Providers, and the Community." Jill Jones, a clinical law teacher at Pepperdine was the moderator. Professor Jones directs the Skid Row-Union Rescue Mission Legal Clinic, where Pepperdine students do clinical work. The first speaker was Nancy Chand, an LA Public Defender. She discussed the innovative Homeless Court in LA. In the Homeless Court, homeless defendants charged with quality of life offenses are referred by social service providers and are placed on restorative programs. Upon completion of the program, their warrants are dismissed. The leading force behind the creation of the Homeless Court, Judge Michael Tynan spoke next. He observed that the Court was the outgrowth of the what he termed as the crisis in the criminal justice system. This crisis is characterized by chronically overcrowded jails populated with homeless and mentally ill people. Judge Tynan recounted the political maneuvering that was necessary to the creation of the court-trying to reconcile the differing interests of prosecutors, public defenders, judicial personnel, and, toughest of all, the police. He sold the idea of the Homeless Court by emphasizing the financial

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savings that such a Court could realize. The location of the Court became an immediate issue. Ultimately it was placed in the downtown Union Rescue Mission, where students from Pepperdine and UCLA have been indispensable to the functioning of the Court.

Judge Tynan also discussed the still experimental but so far successful Drug Courts in LA. This Court operates on a rigid treatment model that seeks to rehabilitate drug offenders. To start, the LA Sheriff offered the program a facility for a treatment center. Through grant funds, two million dollars was raised for a staff and the facilities. There have been many success stories, offenders who leave the program drug-free and remain that way.

Finally, Judge Tynan analyzed the concept of the community court. He stressed that lawyers in these courts play nontraditional roles. The Public Defender, for example, does not have an advocacy role in the Homeless or Drug Court. He or she operates more like a social worker, while prosecutors truly have the opportunity to do “justice.”

These stories emphasized the importance of context in teaching about doctrine in law schools. Does the traditional criminal law course consider the contexts of courts such as these? If this context is injected into coursework, new topics and ideas inevitably would emerge. A wholly different “theory of justice” would also have to be considered. Community defending and community prosecuting would become models to examine, and the “new” skills associated with this notion of lawyering would need to be teased out. Elliott Milstein noted that there is a false dichotomy between lawyering skills and social work skills. He stated that law schools have come a long way in teaching about lawyering roles and responsibilities. He also noted that law faculty are well-positioned to evaluate the impact of these new courts.

Others commented that law schools might need to examine their admissions processes to ensure that students will be more attuned to assuming the new roles that these courts demand. One person stated: “How do you teach character, enthusiasm, and delight in helping others?” Another participant, a public interest lawyer, noted that it is the rare law school course that teaches how to represent addicted people or mentally ill clients. “The whole package” of necessary skills is not considered.

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The second Plenary Session was entitled “Missionary Lawyers: Mixing Faith and Advocacy.” The moderator was Christa Crawford of Pepperdine’s Union Rescue Mission Clinic. The first speaker was Professor Robert Cochran of Pepperdine. He discussed his faith-based approach to teaching professional responsibility through a seminar entitled “Christ, the Law, and the Legal Profession.” Unlike a generic professional responsibility course, in this seminar students were encouraged to explore their personal beliefs about law and lawyering. He explained how the Union Rescue Mission Clinic grew out of an exercise in this seminar.

Professor Larry Sullivan of Pepperdine’s Strauss Institute for Dispute Resolution spoke next. He talked about his law school course on Religion and Dispute Resolution. In this course, Professor Strauss trains students in the skills of reconciliation, including the importance of giving people a voice in disputes. Next, Joe Templeton, an attorney with the Inner City Law Center, explained his legal work in representing homeless people and others in slum housing disputes. The discussion turned to what it meant for lawyers to “mix” faith and advocacy and whether law schools should use faith to address the question of what it means to be a lawyer. Bill Hing observed that, without relying on expressions of religious faith, he teaches his clinical students that in searching for allies around the issues that he and his students work on, he encouraged coalitions that included churches and other faith-based institutions. Other speakers encouraged what they saw as the movement toward faith-based legal aid programs, citing, for example, the positions taken by Bush and Gore on this issue during the Presidential campaign.

The final Plenary session was called “The Firm Meets the Street Lawyer: Advancing the Public Interest From the Private Bar.” The speakers were Lisa Jaskol from Public Counsel’s Homeless Persons’ Representation Project, Celest Liversidge, the Director of the Mobile Justice Foundation (a mobile legal clinic that travels to shelters and clinics), Bill Rehdal of the LA firm of Rehdal, Rameson, Lewis & Glasner, and Christa Crawford, who made the transition from big firm practice to public interest lawyer. Several themes emerged: (1) public interest practice demands skills and creativity that neither law schools nor firms address; (2) the entrepreneurial side of public interest practice

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is not a subject of teaching in law schools. As a result, students don't have a good sense of the process that is necessary to realize their aspirations to do public interest lawyering; (3) finally, it was noted that law schools can lend resources and legitimacy to the teaching and practice of public interest law.

The Colloquium reconvened on Saturday, April 21, 2001 at UCLA Law School. Approximately 50 people were in attendance, including students from UCLA's Public Interest Law & Policy Program. Dean Jon Varat opened the day by emphasizing growing the challenges posed by issues of access to justice. Bill Hing followed by summarizing some of the lessons that we've learned from the Colloquia series. A major one is the need for collaboration among law schools, communities, and other allies. Bill stressed that the Project was designed to reach the "hearts and minds" of all law faculty, not just clinical teachers. He noted that with the dearth of legal services for the poor in this country, it was incumbent on law schools to address this need.

Elliott Milstein spoke next. He first sketched the unfairness that permeates our legal system in areas such as death penalty representation and asylum advocacy. He recounted the extraordinary developments that have been triggered by the Colloquia Series, such as the initiation of a state-funded legal services program by the judiciary, who met at the Texas Colloquium and the dedication of the new President of the Florida Bar to access to justice issues, something that was spurred by the Colloquium at Nova law School.

Professor Richard Abel of UCLA Law School introduced the day's aims. He elaborated on the dimensions of "legal inequality," where lack of access to the legal system yields no justice at all. Professor Abel introduced the first speaker, Professor Jody Armour of USC Law School. Professor Armour began by stating that he owes a special debt to equal justice projects. He recounted how his father had been falsely convicted of a marijuana charge and how students from Ohio State Law School's Postconviction Project had assisted in overturning his father's conviction. He said that he "was honored to speak at an event like this and to complete the circle." Professor Armour's inspirational talk ranged widely over justice and injustice in the United States, focusing on prison populations and racial discrimination. He then turned to legal education, wondering why legal education forces students to abandon their

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“aspirations, principles, and convictions.” He keenly observed that law students “learn the words but not the music.” He also quoted Audrey Lord, the poet: “You can never dismantle the master’s house with the master’s tools.”

The first Plenary Session was entitled “ Challenges to Achieving Equal Access to Justice: Perspectives from the Field.” The participants were distinguished public interest and legal services lawyers from the southern California. They included Scott Cummings from the Public Counsel Law Center, David Lash of Bet Tzedek Legal Services, Professor Gary Blasi of UCLA Law School, Julie Paik, the Family Law Facilitator of the LA Superior Court, Bruce Iwasaki of the Legal Aid Foundation of LA, and Abby Leibman of the California Women’s Law Center. Scott Cummings of Public Counsel, who does transactional work for low-income communities, began by saying that L.A. was an appropriate site for the final Colloquium because the city exemplifies the obstacles and opportunities in pursuing equal justice. He described the staggering complexities of poverty in the region, noting that 1 in 3 children in the area lived below the poverty line. He also called L.A. the “epicenter” of new progressive coalitions whose missions are to alleviate the inequalities in the marketplace and judicial system that characterize today’s world. He commended the Colloquium Initiative for attempting to bridge the divide between law school pedagogy and justice activism.

David Lash of Bet Tzedek Legal Services discussed the built-in responsive of the judicial system (a judge has to rule, afterall, whether rightly or wrongly) and the need for individuals to secure representation in the system. Professor Gary Blasi of UCLA discussed a study of pro se litigants in which tenants who represented themselves in Housing Court lost overwhelmingly compared to those who had a lawyer. He discussed how people need lawyers to obtain basic necessities such as health care, housing, food, etc.

Julie Paik of the L.A. Superior Court described her work as a Family Court facilitator. In this capacity, she assists a range of individuals who other wise would not have “access” to the courts in maneuvering through the system. Bruce Iwasaki of the Legal Aid Foundation raised the dilemma of progressives whether in law schools or in the public interest community. He talked about the real work of chal-

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lending illegitimate authority and redistributing wealth and how we often mask those goals by using terms such “equal justice.” In poverty law, “access” is not the same thing as “ending poverty.” The final speaker was Abby Leibman of the California Women’s Law Center. She discussed the need to move beyond the courts to redress poverty and inequality. She noted that creating a sense of “outrage” is part of the work of those promoting access to justice.

A free-ranging discussion ensued. A list of impediments (both external and internal) to equal access was generated. The list included:

1. Geographical dispersion.
2. Language.
3. The invisibility of poverty.
4. Ignorance and complacency.
5. Classism, racism, gender bias.
6. The U.S. Supreme Court and its creation of barriers to justice.
7. Poverty.
8. Efforts to gut IOLTA, LSC, etc.
9. The precariousness of the working poor, who can’t afford legal representation.
10. The need for “community judging.”
11. The limited resources expended on legal services for the poor, which has generated methods such as triage, unbundling, restrictive case selection, etc.
12. The need for loan forgiveness to attract law students into progressive legal work.

The discussion then turned to the strategic efforts various legal organizations are undertaking to address these barriers. These efforts included targeted case selection (e.g., is the case within the organization’s mission? Can money be raised around the case? Can the case have a broader impact?). The need to listen to clients in meaningful ways was also raised as was responding “holistically.” Doing

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more “community lawyering” was mentioned, defined as facilitating the provision of more nontraditional services and encouraging more organizing and community education.

Law schools, it was observed, can develop and teach new “skill sets” in such areas as media advocacy. Universities can also do the needed outcome studies to determine what works and doesn’t. This is uncharted territory. The role of the private bar was also discussed.

The second Plenary was entitled “Meeting the Funding Challenge: A View From Funders and Others.” The members of the panel were: Professor Scott Wylie of Whittier Law School and a member of the Board of Governors of the Cal. State Bar; Alicia Dixon of the California Endowment (www.calendow.org); Neal Dudovitz, Director of Neighborhood Legal Services of LA County; Miriam Porter of the Open Society Institute; and Rex Heinke a private attorney and ead of the LA County Bar Association Foundation. The participants made the following observations:

1. To obtain grant funding it is critical for applicants and funders to translate for each other their needs.
2. It is important for applicants to explain how the work of the organization shifts the nature of the debate over social justice.
3. Collaborative proposals, which change the way people operate to leverage resources, are attractive to foundations today.
4. The issue of “evaluation” is becoming increasingly important. How to measure the value of a project is a topic receiving intensive attention.

The third Plenary was entitled “ Building an Equal Justice Community: Innovative Roles and Relationships for Law Schools.” The panel members, all Professors, were: Scott Wylie of Whittier, Greg Ogden of Pepperdine, Rick Abel of UCLA, Sande Buhai of Loyola, and Carrie Hempel of Southern Cal. Each described the clinical and other programs at their respective schools. The range of legal work performed by the law schools was expansive. From direct service work in special education, homeless representation, children’s rights,

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postconviction work, family violence, disability rights immigration, etc. to public policy advocacy in education, to the publication of resource manuals for practitioners, each of the presenters portrayed various pathways of law school involvement in social justice issues in the community.

Rick Abel discussed UCLA's innovative Public Interest Law and Policy Program. He first recounted the "most corrosive" features of the law school environment for public interest work. These include:

1. The perception, particularly among students of color, that their own communities may think that they are doing public interest work by default, meaning that they didn't qualify for the brass ring of big firm employment.
2. The public interest community itself is very elitist. There is a great emphasis on grades and pedigree among different strata of the public interest bar, and the work is often portrayed as a sacrifice, when it's not.
3. The mentoring that is an integral part of UCLA's program changed the law school experience for the students in the program.
4. Public interest law needs to be integrated into the curriculum.
5. Having a peer group within the law school and the broader community made a difference.
6. The traditional yardsticks of success in law schools (e.g., summer law firm salaries) need to be confronted. Students should not be "measured" against these firms or be inculcated with the message that the only locus of change is from within. Students should be taught how to shift power and make progressive change happen.

Abel also made other telling observations about the dynamic of building support for justice work in law schools. These were:

1. With the battle for the legitimacy of clinical education won, why hasn't recognition of the value of clinical work spread

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more broadly throughout the curriculum?

2. Student-driven projects, such as the Workers' Justice Project at UCLA, in which students work with mentoring practitioners, should be recognized for their educational value outside the traditional curriculum.
3. Law schools should pay more attention to issues like the integration of lawyers into the community.

The Colloquium concluded with an energetic group discussion. Among the points and questions raised were:

1. Law schools need to think about skills, knowledge, networks, incentives continuing beyond law school.
2. How can we insert into the law school environment alternative images of success?
3. Law schools need to educate about serving less sympathetic clients as well as the "deserving poor."
4. Traditional coursework marginalizes public interest work by breeding cynicism-for example in jokes about greed and students losing their souls.
5. We shouldn't overlook the progress that has been made in the last twenty years in creating a public interest community in legal education.

The UCLA Colloquium was a suitable finale for the Equal Justice Colloquia Initiative. It raised the complexities of the concerns that are driving us and the different approaches like-minded people are taking toward a shared end. As with clinical legal education 20 years ago, this movement, which builds on the foundation laid by the clinical movement, will grow in ways that are not predictable now.

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