WHY CLINICAL PROGRAMS SHOULD EMBRACE CIVIC ENGAGEMENT, SERVICE LEARNING AND COMMUNITY BASED RESEARCH

LINDA F. SMITH

This article describes "Civic Engagement," a pedagogical movement current on college campuses which includes "Service Learning" courses and "Community Based Research." The article demonstrates that extern programs are "Service Learning" courses, and argues that clinical faculty should join with colleagues in other departments engaged in "service learning" to advance this pedagogical approach. Similarly, extern programs are excellent jumping off points to add "Community Based Research" to the law school curriculum. Here the article describes the author's experiments in community based research and gives examples of various approaches from other law schools.

INTRODUCTION

While law schools offer in-house clinics or externships, other departments of the university offer "service learning" courses. Where clinical scholars urge theories of promoting social justice or fulfilling professional responsibilities or engaging in "rebellious lawyering" that link lawyers to their communities, other university departments promote "civic engagement" with similar goals in mind. Universities invested in service learning and civic engagement are now asserting the value of "community based research." Meanwhile, clinicians debate what should "count" as research as we endeavor to create scholarly insights from reflecting on our practice experiences.

Clinicians would be wise to understand this pedagogical movement of Civic Engagement – encompassing both Service Learning courses and Community Based Research. This pedagogical philosophy is consonant with the philosophy of clinical legal education and can provide additional insight about and justifications for our work. Linking with university colleagues engaged in these forms of teaching and research can compliment our work and may also provide opportuni-

* Professor and Clinical Program Director, S. J. Quinney College of Law, University of Utah. This article was supported by the University of Utah S. J. Quinney College of Law Faculty Development Fund and first presented as a paper at the Externship: Learning from Practice Conference, March, 2003.
ties for interdisciplinary courses and scholarship. As clinical faculty endeavor to create meaningful scholarship for society, it is useful to also understand how "community based research" is important to society and within the academy. Additionally, clinicians should promote "community based research" so that it will be embraced by the entire law school community.

This article demonstrates how theories of clinical legal education are consonant with the pedagogical movement of "Civic Engagement," "Service Learning," and "Community Based Research" current on university campuses today. It argues that much of extern-based clinical legal education is already entirely consistent with concepts of "service learning." Because externship programs and community development clinics often have the best connections with community resources, they should lead the way in helping the law school develop programs for community based research.

Finally, this article surveys a variety of experiments in which law schools are currently engaged in research designed to benefit underserved communities or to address systemic problems. These innovative courses and programs deserve recognition as "community-based research" in the finest public service tradition. While clinicians appear to be leading the way in these innovations, this is something the entire law faculty should learn about and embrace. Hopefully providing this background about "civic engagement" drawn from theories of education will provide an organizing philosophy and further impetus for these innovations.

I. Service-Learning Pedagogy, Externships & Clinics

It is unfortunate and anomalous that externships have occasioned so much regulatory suspicion given that well-designed externships fit solidly within the "service-learning" movement for enhancing university education by linking academic study to service in the community.

An "externship" or "field placement" program is a creature of the legal academy that, according to accreditation standards, "permits or requires student participation in studies or activities away from the law school or outside the law school in a format that does not involve attendance at regularly scheduled classes."1 The recent history of externship programs is replete with suspicion about the academic quality of this lawyering experience away from the academy, and the need for law faculty to design, oversee, and teach courses in conjunction with

such experiences.²

Perhaps this suspicion stems from the history of legal education in which apprenticeship instruction was abandoned in favor of locating the law school within the university.³ Initially the law school needed to demonstrate its legitimacy within the academy as a place of teachers and scholars, not a trade school. Having succeeded in this endeavor, the academy may have mistrusted externships because it feared resurrecting the apprenticeship model.

Nevertheless, in avoiding the “trade school” opprobrium, the law school has unfortunately failed to connect to essential theories about the mission of higher education in service to the community. As a result, today the legal academy fails to adequately appreciate the educational advantages of the community connections that are available through extern programs.

A. History of “Service-Learning” in the Academy

Precursors of modern service-learning were established, together with internships and cooperative education, in the 1960s and 1970s and the term “service-learning” was coined in 1967.⁵ Many college service programs were established at that time and received national support through federal agencies.⁶ At the same time, the National Society for Experiential Education and the Council for Adult and Experiential Learning were formed to promote experiential learning.⁷ However, the innovations of that era did not become permanent components of the academy.

The theme of service was again taken up in the mid-1980s by college and university presidents, who founded the Campus Compact:

⁵ Id.
⁶ In 1969 OEO established the National Student Volunteer Program that became the National Center for Service-Learning and later was merged with VISTA and the Peace Corps to form the federal agency ACTION. Id.
⁷ Id. NSEE was known as the NSIEE (National Society for Internships and Experiential Education) until 1994.
The Project for Public and Community Service, to support academically based student public service. Their motivation was to counteract the charges that youth were an isolated and self-centered "me generation." The Campus Compact continues to this day, with burgeoning membership.

The National Society for Experiential Education began work with various colleges to strengthen experiential education. This group's attempts to define best practices in service-learning culminated in the 1989 Wingspread conference where the Principles of Good Practice in Combining Service and Learning were written. Since that time "[t]he 1990s have seen an explosion of literature and conferences on service-learning."

The current service-learning movement owes much to its intellectual mentors, and this history should be understood. Primary among its modern mentors was Ernest Boyer (professor, dean, chancellor, commissioner of education for the nation, and foundation president) who was concerned with campus isolation. He wrote of the centrality of service as an aid in reforming undergraduate education:

We conclude that today's undergraduates urgently need to see the relationship between what they learn and how they live. Specifically we recommend that every student complete a service project— involving volunteer work in the community or at the college—as an integral part of his or her undergraduate experience. The goal is to help students to see that not only are they autonomous individuals but also members of a larger community to which they are accountable.

Boyer proposed that we should create the "campus as a caring community" for students and that students should "reach out to others—to those genuinely in need and hopefully through field experience, build relationships" across generations, cultures and races. Students should be invited to see themselves as members of a larger community, he argued. Boyer saw the campus as a staging ground for action as well as a place for introspection.

---

8 Thomas Ehrlich, Forward, in Jacoby, supra note 4, at xiii.
11 Id. at 15.
13 Ernest Boyer, College: The Undergraduate Experience in America 51 (1987).
14 Glassick, supra note 12, at 23.
15 Id.
The philosophy undergirding service-learning harkens back to John Dewey, philosopher and educator from the early 1900s. Dewey was a proponent of education to advance democracy. Dewey "emphasized the need for democratic citizens to understand and consider the welfare of the society as a whole. In order to balance their personal needs with the needs of others, citizens must gain an understanding of the lives and experiences of other citizens."16 This focus upon civic participation and social commitment resonates today with educators involved in service learning. But in addition to the argument for civic involvement, Dewey also theorized in favor of experiential learning. Dewey maintained that mere memorization of facts was not education; instead "genuine education would be derived from life experience that was accompanied by opportunities for discussion and reflection. In the absence of reflection, experience by itself has the potential for 'mis-education' or a faulty interpretation of experience."17

Indeed, today service-learning looks to many proponents of experiential education – Jean Piaget, David Kolb, Donald Schön – as well as to John Dewey, for justification and guidance for this endeavor.18 "Cognitive scientists, like experiential educators, recognize the barriers presented to developing 'knowledge in use' . . . by the decontextualized nature of much classroom instruction and stress the importance of learning in complex contexts and the 'active construction of knowledge.'"19

B. Service-Learning Today

Currently "service-learning" is defined as: "meaningful community service that is linked to students' academic experience through related course materials and reflective activities."20 Service-learning is:

17 Id.
18 Id.
[A] form of experiential education in which students engage in activities that address human and community needs together with structured opportunities intentionally designed to promote student learning and development. Reflection and reciprocity are key concepts of service-learning.21

Service learning has also been characterized as “a form of experiential education, deeply rooted in cognitive and developmental psychology, pragmatic philosophy, and democratic theory.”22 Service learning is distinguished from (and superior to) volunteer service:

In contrast to voluntary service, service learning formally integrates community service with academic study. In doing so, service learning overcomes some of the shortcomings of voluntary service by articulating explicit educational objectives that are evaluated, by involving faculty and campus resources in a deliberate way that is consistent with the institutional mission, and by representing the learning experiences on the course transcript.23

As any good clinical program utilizes experiential methods to achieve educational goals, with a faculty member guiding the student’s learning, so too does a well designed service-learning course:

Service learning both ‘complicates and liberates educational practice.’ It is complicated because it changes the nature of instruction and the role of the faculty member. No longer the ‘sage on the stage,’ the instructor’s role becomes one of a facilitator who designs opportunities for learning from community service experiences. This means that teaching roles are shared with others, instruction is more public, knowledge sources are decentralized, and learning experiences are less predictable.24

Service-learning is justified pedagogically in two ways. First, it is an active learning strategy that some think superior to simulations because it directly addresses the ‘“problems of greatest human concern” that are “messy and confusing and incapable of technical solution.”’25

21 Jacoby, supra note 4, at 5.
22 Zlotkowski, supra note 20, at 3, quoting Keith Morton & Marie Troppe, From the Margin to the Mainstream: Campus Compact’s Project on Integrating Service with Academic Study, 15 J. BUS. ETHICS 1, 21 (1996).
24 Id. quoting Edward Zlotkowski, Pedagogy and Engagement in Colleges and Universities as Citizens (Bringle et. al. eds. 1999) It is perhaps worth noting that in-house clinical experiences can also achieve this criteria for “service-learning.” The difference in the context of the university is that most service-learning opportunities are provided through external agencies rather than through an agency established at the university to provide service (as most in-house clinics are).
Thus, “by linking the classroom to the world of praxis, it allows induction to complement deduction, personal discovery to challenge received truths, immediate experience to balance generalizations and abstract theory.” 26 Secondly, by marrying the student’s self-interest in acquiring skills with the community interest in obtaining needed services, it creates a bridge of knowledge between “public work” and “private benefit.” 27

C. Service-Learning Courses’ Relationship to Externships and to Clinical Programs

As defined above, it would seem that many high quality externships will fall into the category of “service-learning” courses. Generally, an externship places a student in the legal community 28 outside the law school with the goal that the student will contribute something to the community while learning about law practice from that exposure and from reflecting upon it with the supervising faculty member.

The service-learning requirements for reflection within a classroom setting is entirely consistent with the ABA regulatory preferences for a classroom component (and with prior regulatory requirements to engage each student in reflection). 29 The service-learning focus upon reflection is also consistent with Gary Bellow’s definition of clinical legal education as having three features, including reflection:

(1) the student’s assumption and performance of a recognized role within the legal system;
(2) the teacher’s reliance upon this experience as the focal point for intellectual inquiry and speculation; and
(3) a number of identifiable tensions which arise out of ordering the teaching-learning process in this way. 30

26 Zlotkowski, supra note 20, at 3.
27 Id. at 4.
28 While an extern placement with a private for-profit entity will not meet “service-learning” criteria, most externships work with public interest law projects which clearly fit the service-learning designation.
29 The current standard requires an externship be “periodically reviewed utilizing . . . factors. . . [including] quality of the student’s educational experience. . . any classroom or tutorial component . . . A contemporaneous classroom or tutorial component taught by a faculty member is preferred. If . . . six credits. . . the classroom or tutorial component taught by a faculty member is required.” Standard 305(c)(2) and (4), and (f)(4) (2003); ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS (2003) supra note 1. Previously the Standard included the following Interpretation calling for reflection rather than oversight: “The field instructor or a faculty member must engage the student on a regular basis throughout the term in a critical evaluation of the student’s field experience.” Interpretation 2(c) of Standard 306. ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS (1986), supra note 2.
30 Gary Bellow, On Teaching the Teachers: some Preliminary Reflections on Clinical
The service-learning requirement for service that "address human and community needs" or the "problems of greatest human concern" is also very consistent with law schools striving to promote "professional responsibility" through clinical programs. The concern to educate responsible professionals was at the heart of in-house clinicians' goals to explore "a vision of social justice" and reconcile that with lawyers' "personal actions" as professionals. Likewise, founding clinicians wanted students to "develop a profound understanding of the legal theory, economic implications and social dynamics of a given segment of the legal system" that would result in "efforts to reform the process" through their clinical work. Today law faculty seek to promote "equal justice" through clinical programs, pro bono opportunities and through their leadership within the legal academy.

The Equal Justice Project of the AALS was implemented under the AALS Presidency of Dean (and clinician) Elliott Milstein "to explore the complex of roles that legal education can play in confronting a deep-seated issue of law and democracy...the severe maldistribution of legal resources..." This project recognized that law schools as well as other university departments had "committed to community

Education as Methodology, in Counsel on Legal Education for Professional Responsibility, Inc., Clinical Education for the Law Student; Legal Education in a Service Setting 375, 379 (1973) (emphasis added).

31 Jacoby, supra note 4, at 5.
32 Zlotkowski, supra note 20, at 3.
33 Ford Foundation funding for CLEPR – the Council on Legal Education for Professional Responsibility – was responsible for the growth of clinical programs during the early 1970s. William Picus, the moving force behind CLEPR, articulated three goals for clinical programs: training in basic skills, exploring lawyering roles, and exposing future lawyers to the injustices of legal institutions – all falling within the umbrella for "professional responsibility." See William Picus, Clinical Education for Law Students 77-82 (1980); Eugene L. Smith, Is Education for Professional Responsibility Possible?, 40 U. Colo. L. Rev. 509, 510 (1968).


36 See Equal Justice Project of the Association of American Law Schools, Pursuing Equal Justice: Law Schools and the Provision of Legal Services (2002) (hereinafter "Pursuing Equal Justice"); see also Deborah L. Rhode, In the Interests of Justice: Reforming the Legal Profession 203-06 (2000) written by a scholar of professional responsibility who also served as AALS President and used that position to urge law schools to offer pro bono programs. Professor Rhode opines: "Clinics serving low-income clients offer especially valuable opportunities for students to learn how the law functions, or fails to function, for the have-nots." Id. at 199. But recognizing that "talk is cheap, and many educationally desirable initiatives are not” Id. Professor Rhode urges law schools also create pro bono programs in order to create "a culture of commitment." Id. at 203.

37 Pursuing Equal Justice, supra note 36, at 1.
development partnerships, mobilizing the specialized resources available within the university in collaborative ventures with community organizations. . . ."38 The Project went on to refer to “service-learning” at universities and to equate such community development clinical programs to service learning:

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 educational, 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.39

Indeed, well-designed community development clinics also comport with good service-learning courses because they involve service to and with the community and provide opportunities for guided reflection.40

The possibility of institutional critique regarding justice that is inherent in clinical work has motivated some scholars to point to that goal as a particular advantage of an extern-based clinical program:

Political critique is the most important clinical objective . . . . The critical task is particularly important to the university law school. The ability to judge day-to-day law practice against objective standards of justice and fairness is an essential quality of a good citizen and a good lawyer.41

Although service-learning was initially conceived as an approach to undergraduate education, professional educational programs can and do utilize the structure and rely upon the theory of service-learning. There is every reason for clinical faculty and students to rely upon service-learning movements and theories for pedagogical theory and support. Such reliance may provide impetus for extern-based programs to develop on-going relationships with agencies that enhance access to justice and to include critical reflection about these

38 Id. at 5.
39 Id. at 6.
40 It may be worth pondering when other “in-house” clinics deserve the “service-learning” moniker. Of course, service-learning courses perforce rely upon existing community institutions and thus gain understanding about the community. A self-contained law office in the law school serving individuals clients may have no particular connection to the community and thus not offer this benefit. However, even such an in-house clinic might intentionally forge relationships with other community service agencies in determining case priorities or discussing unified strategies, thus achieving “service-learning” objectives.
issues in the program.\textsuperscript{42} Recognition of these service-learning objectives may give added support to in-house clinicians who wish to include access to justice goals within their programmatic structure. Reference to these standards may help extern and in-house clinics appreciate the ways in which they may have common missions.

II. Civic Engagement – A Place for Scholarship?

John Dewey’s theories of education to advance democracy call for more than “service-learning.” The service-learning instructional methodology links the teaching and the service missions of the university, but fails to engage the “research” mission. Yet in the post-World War II era, research has come to be seen as the “central professional endeavor and the focus of academic life . . . . [shifting] the balance of faculty work . . . to a preoccupation on research and discipline-based work, at the expense of teaching and service.”\textsuperscript{43} Accordingly, if theories about linking universities to communities are to have maximum resonance, there must be a way to link the scholarly mission with the community.

Today the “service-learning” community has taken a step beyond service and learning to focus upon creating the “engaged” university. “Civic engagement” denotes the university advancing all its missions – including the scholarly mission – in service to the community. “Engagement” describes “mutually beneficial community-university knowledge-based relationships.”\textsuperscript{44} While this includes service-learning, it should encompass more.

Indeed, one of the crucial contributions of Ernest Boyer was to redirect faculty scholarship to service of the community and the nation. Boyer did not attack traditional research, but argued for a broadened and applied view of scholarship, identifying “research, teaching, integration and application as the faculty priorities.”\textsuperscript{45} He anchored his argument on the nation’s historical reliance upon colonial colleges to prepare civic leaders and on the land-grant universities’ responsibility to the agricultural and industrial revolution.\textsuperscript{46}

\textsuperscript{42} Extern programs that are individually tailored for each student to achieve the student’s educational goals will not achieve these ends as thoroughly as programs in which some “pre-packaging” has been done by the law school to ensure that access to justice issues are a topic of reflection, no matter the other learning goals that may exist.

\textsuperscript{43} Bringle et al., supra note 23, at 6.

\textsuperscript{44} Barbara Holland, Institutional Impacts and Organizational Issues Related to Service-Learning, Special Issue, Michigan Journal of Community Service-Learning 52 - 60 (Fall 2000).

\textsuperscript{45} Glassick, supra note 12, at 23, citing Ernest Boyer, Scholarship Reconsidered (1990).

\textsuperscript{46} Id at 24.
Boyer argued:

If the nation’s colleges and universities cannot help the students see beyond themselves and better understand the interdependent nature of our world, each new generation’s capacity to live responsibly will be dangerously diminished. . . . The aim of education is not only to prepare students for productive careers, but also to enable them to live lives of dignity and purpose; not only to generate new knowledge, but to channel that knowledge to humane ends; not merely to study government, but to help shape a citizenry that can promote the public good. Thus, higher education’s vision must be widened if the nation is to be rescued from problems that threaten to diminish permanently the quality of life.  

Boyer defined the challenge: “strengthen research, integration, application and teaching,” and put on the faculty “the primary responsibility for giving scholarship a richer, more vital meaning.”

Boyer’s criticisms of and challenges to the academy were taken up by many leaders in higher education, with his Scholarship Reconsidered becoming a Carnegie best seller. Derek Bok, president of Harvard and former Dean of Harvard Law School, also criticized the disengaged faculty:

Armed with the security of tenure and the time to study the world with care, professors would appear to have a unique opportunity to act as society scouts to signal impending problems long before they are visible to others. Yet rarely have members of the academy succeeded in discovering the emerging issues and bringing them vividly to the attention of the public . . . [W]hat Rachael Carson did for risks to the environment, Ralph Nader to consumer protection, Michael Harrington for problems of poverty, Betty Friedan for women’s rights, they did as independent critics, not as members of the faculty.

As Boyer refined his ideas over the next few years, he spoke widely and often of his vision of “engagement”, ending his later speeches as follows:

At one level the scholarship of engagement means connecting the rich resources of the university to our most pressing social, civic, and ethical problems; to our children, to our schools, to our teachers, to our cities – just to name the ones I am personally in touch with most frequently – you could name others. Campuses should be viewed by both students and professors not as isolated islands, but as staging grounds for action. . . . [W]hat is needed is not just more programs, but a larger purpose, a larger sense of mission. . .

47 Ernest Boyer, Scholarship Reconsidered 77-78 (1990).
48 Id.
49 Derek C. Bok, Universities and the Future of America 105 (1990)
[U]ltimately the scholarship of engagement also means creating a special climate in which the academic and civil cultures communicate more continuously and more creatively with each other . . . .\textsuperscript{50}

Since Boyer’s death in 1995, his call for “engagement” has been pursued by many within higher education. Distinguished scholar, college president, and Campus Compact chair Thomas Ehrlich, wrote that “[c]ivic engagement means working to make a difference in the civic life of our communities and developing the combination of knowledge, skills, values, and motivation to make that difference.”\textsuperscript{51}

Others have grappled with how to develop engaged campuses and how to support engaged scholarship. Barbara Holland conducted case studies of various institutions and identified two important principles about developing engaged campuses. Her study supports the conclusions that institutional change requires careful consideration of the institution’s mission and that “no significant institutional change occurred in the absence of a discussion and substantial consensus on institutional mission as an overarching guide . . . .\textsuperscript{52} The second important principle that Holland identified is that involving the community in this institutional change was equally important:

[Community engagement . . . works only when community stakeholders are significant participants in the process of institutional change. . . . Communities cannot be viewed as pockets of needs, laboratories for experimentation, or passive recipients of expertise if the academy is to develop meaningful partnerships.\textsuperscript{53}

Scholarship that meets these civic engagement goals has been referred to as “Community-Based Research” denoting community involvement in all stages of the research process – in defining the problem that requires research, designing the intervention or method, analyzing the results and directly benefitting from the endeavor. Where social scientists have, for decades, used communities and individuals as subject of study, Community Based Research asks for a partnership in place of passive cooperation. Within Community Based Research (or civically engaged scholarship), there are various approaches.

“Action Research” was developed by social psychologists who wished to avoid traditional experimental methods.\textsuperscript{54} Action research

\textsuperscript{50} Glassick \textit{supra} note 12, at 29, quoting Boyer.

\textsuperscript{51} Thomas Ehrlich, \textit{Forward, in Civic Responsibility and Higher Education} vi (Thomas Ehrlich ed. 2000).

\textsuperscript{52} Bringle et al., \textit{supra} note 23, at 8. \textit{See also} Barbara Holland, \textit{From Murky to Meaningful: The Role of Mission, in Institutional Change in Colleges and Universities as Citizens} 48-72 (Robert Bringle et al. eds., 1999).

\textsuperscript{53} Bringle, et al., \textit{supra} note 23, at 9, relying upon research of Barbara Holland.

\textsuperscript{54} KURT LEWIN, \textit{RESOLVING SOCIAL CONFLICT} (1948).
is a three-step process involving developing a plan, implementing the action, and assessing the results of the action. As such, it is often a useful approach for scholars to use in working with community members who seek to address real problems with such focused intervention.

“Problem-based Service-Learning”\textsuperscript{55} and “Academically-Based Community Scholarship”\textsuperscript{56} are research methods that can be utilized by a class of students guided by a faculty scholar. In Problem-Based Service Learning the students work in teams to solve real problems in community settings by researching the issue and then applying their theoretical understanding to the community concern. While this approach may not lead to “new knowledge” that is suitable for faculty publication, it does result in new knowledge for the community partner. Its is also an engaging way for many students to learn research methods or to understand a given substantive area.

Academically-Based Community Scholarship is applied research guided by the faculty scholar and often carried out with the assistance of a class of students. In Academically-Based Community Scholarship the community partner should obtain some answers or solutions and the faculty researcher should be able to convert the project to new knowledge to be disseminated in the professional literature.

III. Scholarly Exploration by Clinicians

While other university faculty have been grappling with making scholarship relevant and useful for their communities, clinical law faculty have been exploring what scholarship is meaningful for the clinician’s mission.\textsuperscript{57} This exploration has occurred at a time when the legal academy has been criticized by many for drawing further and further away from serving the needs of the bar, the judiciary, the legislature, and society in a practical way. Perhaps most famously, Judge Harry T. Edwards criticized the academy for “the growing disjunction


\textsuperscript{57} Once ABA Accreditation Standards required “a form of security . . . reasonably similar to tenure” for full-time clinical faculty and permitted law schools to “require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members,” law schools and clinical faculty were forced to grapple with what scholarship was appropriate for various ranks of clinical faculty members. See Standard 405(c) ABA Standards for Approval of Law Schools (1984) 109 A.B.A. 594 (1984). See current Standard 405(c) ABA Standards for Approval of Law Schools (2003 ed.), available at http://www.abanet.org/legaled/standards/chapter4.html (last visited Feb. 21, 2004).
between legal education and legal practice most salient with respect to scholarship.\textsuperscript{58} Judge Edwards criticized the decline of "practical" scholarship that is doctrinal (attending to the various sources of law) and "prescriptive" – that "analyzes the law and legal system with an aim to instruct attorneys in their consideration of legal problems; to guide judges and other decisionmakers in their resolution of legal disputes; and to advise legislators and other policy makers on law reform."\textsuperscript{59}

Various responses were published, some arguing that doctrinal scholarship continues to be published (though perhaps more often in less elite law reviews)\textsuperscript{60} and others arguing that the publication of theoretical articles and social science articles is useful in analyzing the effect of law on society and the values incorporated in our legal system.\textsuperscript{61}

In the midst of this debate, clinical faculty have chosen various paths and have advanced various theories themselves. Professor Colbert summarizes that "many clinicians have accepted this reality" that the academy prefers them to "publish according to traditional legal academic criteria, namely heavily footnoted law review articles in 'respectable' law journals" and have succeeded in doing just that.\textsuperscript{62} Indeed, practicing clinicians are well situated to publish prescriptive doctrinal scholarship when and where it is appreciated.\textsuperscript{63}


\textsuperscript{59} Id. at 43. Judge Edwards did not entirely condemn "impractical" scholarship such as "critical legal studies" or "law and economics," but regretted the trend toward more and more of such scholarship that either failed to be prescriptive – to address a problem that some lawyer or policy maker must resolve – or that was prescriptive but wholly theoretical, thus ignoring applicable sources of law. Id. at 46.


\textsuperscript{63} Barbara Babb, professor at the University of Baltimore, taught in the family law clinic and pursued legislative reform efforts seeking a unified family court. These efforts resulted not only in the legislative change and "bar journal" articles, but thereafter in numerous scholarly publications arising out of this work. See Colbert supra note 62, at 550-51 for a comprehensive discussion and cites to Babb's articles.
However, many clinical scholars have created new forms of scholarship by reflecting upon their practice experiences. Professor Dinerstein notes that “some of the best clinical scholarship examines the manner in which indigent clients experience the welfare system, housing court, and other settings that exist far from the esoteric world of appellate cases.”\(^{64}\) The articles that attempt to tell the stories of poor clients’ real life experiences actually model the sort of reflection we ask our students to do about their practice experiences. When thorough and deep reflection of this sort is done, new knowledge is, indeed, gained from the community. Dinerstein argues that these “clients’ actual experiences, can be a useful antidote to abstract theorizing about justice” that individuals such as Judge Edwards criticize.\(^{65}\)

This reflection upon practice experiences need not critique only “poverty law,” but can critique the approach to lawyering. “One of the most important ways in which clinical scholarship can contribute to the pursuit of justice is in its examination of the lawyer-client relationship itself [and the] . . .structure of law practice.”\(^{66}\)

Finally, Dinerstein suggests that clinical scholarship about justice might benefit by multi-disciplinary approaches.\(^{67}\) In this way the skills of the sociologist, anthropologist, psychologist, and education professor might be brought to bear to understand and to solve community problems.

Both Professors Dinerstein and Colbert have urged that clinical “scholarship” be broadly defined in order to permit clinical professors to advance justice:

Clinical scholarship can also assist in redefining what is considered scholarship and thereby increase the ability of legal scholarship to promote justice.\(^{68}\)

[M]any clinicians . . . and nonclinical faculty activists engaged in law reform . . . . see scholarship as a vehicle for improving the quality of


\(^{65}\) Id.

\(^{66}\) Id. at 471 citing the classic GERALD LOPEZ, *REBELLIOUS LAWYERING: ONE CHICAGO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992) regarding the way in which lawyers relate to clients and to client communities. *See also* Clark D. Cunningham, *A Tale of Two Clients: Thinking About Law as Language*, 87 MICH. L. REV. 24 (1989) regarding attorney-client relationships. Of course, other lawyering skills – from advocacy to negotiation – have formed the basis for clinicians’ scholarly works.

\(^{67}\) Id. at 472.

\(^{68}\) Id. at 473
justice by righting wrongs and fixing problems in the civil and criminal justice systems.\textsuperscript{69}

Most recently the AALS Equal Justice Project has challenged law schools to remove inhibitors that discourage clinical faculty from scholarship that advances justice noting that “[r]igid definitions of countable scholarship have often inhibited faculty, usually at the pre-tenure state, from conducting research on controversial, contested social or political issues or linking their research to the activities of grassroots groups.”\textsuperscript{70}

The Equal Justice Project has further suggested particular ways in which law schools should work with their communities in order to promote equal justice. Certain suggestions call for scholarly study:

Law schools would serve an important public interest by organizing the creation of reports detailing the status of equal justice concerns in each state. . . . [to] examine issues of immediate concern. . . . [to] highlight effective models or legislation and expose practices that are inimical to the fair administration of justice. . . .

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. . . .

[S]tudents and faculty could serve as research resources for legal services, public defender, and similar programs.\textsuperscript{71}

Professor Colbert posits that the “process of first engaging in scholarly reform and community work before committing to write the conventional article makes sense to most activists and clinicians.”\textsuperscript{72} He provides examples of such scholarship that arises out of activist work and promotes equal justice, naming his own experiences and those of Professor Jamin Raskin of the American University. Professor Raskin served on a local election task force charged to redraw District of Columbia city council districts. Because of high numbers of noncitizens living in certain districts, the task force asked Professor Raskin to research whether such noncitizens could be permitted to vote in city elections. This lead to a local “share the vote” campaign as well as to Professor Raskin’s first law review articles “canvassing the history, constitutionality and theoretical dilemmas of noncitizen voting.”\textsuperscript{73} Professor Colbert then presents his own history of writing op-ed pieces that lead to law review articles on topics from the criminal justice system’s effect on the poor, to jury selection, to the sanctu-

\textsuperscript{69} Colbert, supra note 62, at 541.
\textsuperscript{70} Equal Justice Project, supra note 36, at 6.
\textsuperscript{71} \textit{Id.} at 35-36.
\textsuperscript{72} Colbert, supra note 62, at 555.
\textsuperscript{73} \textit{Id.} at 555 n. 34, n. 35, citing Professor Raskin’s articles.
ary movement.\textsuperscript{74}

Others have argued that scholarship beyond the law review article should be recognized and valued within the academy. Chemerinsky and Fisk contend various audiences – including the general public and government policy makers – might benefit from law professors’ writings and accordingly faculty should consider such possible audiences when advancing new knowledge.\textsuperscript{75} No doubt most readers will be able to name other examples of true scholarship arising from clinical work, scholarship designed to inform audiences other than law review readers.

IV. CLINICAL THEORIES OF SCHOLARSHIP & CIVIC ENGAGEMENT

The time is ripe to consider “civically engaged scholarship” and “community based research” in light of the evolving nature of clinical scholarship and of theories about clinical scholarship. Cases in which the professor partners with a community group to improve the law – such as Professor Raskin’s study of noncitizen voting – fit squarely within the movement for community based research. The community group joined with Professor Raskin to determine the group’s goals and to identify the research task. Similarly, the suggestions of the Equal Justice Project that law school faculty and students partner with community groups to research their problems and develop solutions with them (as often occurs in a community development clinic) falls squarely within the definition of civic engagement and community based research.

The narrative scholarship about poverty is the faculty member’s reflection about lawyering experiences, providing an excellent model of reflection for the students enrolled in the “service-learning” clinic. While most students’ reflections would be neither deep nor comprehensive enough to qualify as creating new knowledge, the excellent articles by clinical faculty are scholarship arising out of an engaged service experience.

The many instances in which legal work for clients has caused the clinician to study and propose improvements to the administration of justice fit within the finest traditions of professionalism. All lawyers are enjoined to do as much:

As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law . . . be mindful of deficien-

\textsuperscript{74} Id. at 547-50.  
\textsuperscript{75} Chemerinsky & Fisk, supra note 60, at 671-77.
cies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote ... civic influence in their behalf.76

It is a nicer question what relationship the pure scholarship that proposes law reform has to “civic engagement” given the implicit absence of any client, client group, or community partner urging the reforms the professor sees as desirable. Was Professor Babb’s work to reform the family courts followed by scholarship about such reforms more civically engaged, since, presumably, she was working with others in the family law community in studying and urging such changes? Here we may wish to draw a distinction between scholarship that proposes change and scholarship that is linked with movements to effectuate change. While it is professionally laudable for faculty scholars to seek the improvements they believe are necessary, clinicians may wish to examine how they can partner with others to be certain the community is engaged in this endeavor. In this way, engaged scholarship seems to have important similarities with “rebellious lawyering” in which the reform-oriented lawyer is urged to forge comprehensive relationships with the client community.

Finally, the call for interdisciplinary scholarship where clinicians partner with social scientists to study the problems faced by disenfranchised communities is surely aided by understanding civic engagement. Clinical faculty will be wise to search out colleagues who are familiar with civic engagement, with teaching through service-learning, and with community based research. Forging partnerships with such colleagues may be facilitated by our understanding of civic engagement and community based research they can reference within their own traditions.

It may not be possible – or desirable – at this point to define all of the possible relationships between civic engagement and clinical teaching and scholarship. However, it is surely wise to become familiar with these theories of pedagogy and scholarship which so closely relate to our own.

V. PROPOSAL AND EXPERIMENTS IN CIVICALLY ENGAGED SCHOLARSHIP

Here I will discuss examples of my early experiments with “civic engagement” in research projects. I will also present a number of examples that I have discovered exist at other law schools. Finally, I will

discuss why externship programs should lead the way to advance community based research

A. My Experiments in Civically Engaged Scholarship

In the past few years I have taken some tentative steps to encourage “civically engaged scholarship” in seminars I have taught and with students engaged in law review and directed study work. These steps are only initial ones. The extent to which we have been able to engage “the community” can be subject to some criticism. Similarly, how “the community” is defined can be fairly debated. And some of the work product has been less impressive and hence less useful than would be ideal. Nevertheless, in order to give concrete expression to the theory above, I offer the following stories:

I. Poverty Law Seminar – Researcher on Call

I offered a seminar in Poverty Law as a “classroom component” for students working in poverty law placements. All seminar students were required to be engaged in such a field placement or to have previously done clinic or volunteer work in such a setting. (In that way I hoped we would all have the orientation of serving the poor rather than merely studying them.) Then, each student was asked to find a community partner that needed certain research accomplished. The student was to produce the seminar paper for the community partner as well as for the seminar. Some of the students had already completed an externship with a community law office, and this allowed them to define a project that would be valuable to the community partner.

However, some of the placement supervisors had no idea what large research projects needed to be done in their area. Others wanted some research done, but the proposed topics were too narrow or too broad for a viable seminar paper. In the end I surveyed various law reform entities myself and passed along some ideas to students.

The resulting research was, on the whole, a success. One student was interested in the “criminalization of the homeless” and wished to provide the ACLU and local public defenders with the tools that would be needed should law enforcement conduct sweeps or harassment of the homeless to clean up Salt Lake City for the Olympics. He wrote a thorough and excellent paper. (The research was ultimately not needed during the Olympics, since law enforcement did not pur-

77 My law school imposes certain requirements on seminars, and all students are required to complete a seminar. If the paper were written for a class without such “seminar” requirements, the nature of the work product might be less constrained by policy.
sue such an unethical approach. However, the issue is an on-going one and the student – now a public defender – brings this added competence to his work.)

Another student researched medicaid waivers for the local protection and advocacy agency for the disabled. She provided that agency with excellent analysis and information about approaches used in other states.

Yet another student responded to the request of a legal Service program for thorough research about eviction practices that may violate statute or be unconstitutional.

Three students undertook research suggested to me by a local advocacy and reform agency dealing with poverty. One student studied the advisability of the state adopting a state earned income tax credit. Another student studied inequities of our state’s unemployment insurance system, particularly as experienced by single working women. A third student studied domestic violence and TANF, looking at various states’ standards for waivers of the time limit due to violence. All three papers were provided to the advocacy agency. The president of the agency told me the research was excellent – much better than undergraduate interns have done for them – and would be useful in legislative advocacy.

Finally, a student with great academic interest and knowledge in consumer law, but no community experience, located the consumer credit counseling program. He was able to provide that program with his law review note about certain debt collection practices. That program had not previously understood certain defenses that were available to debtors, and was grateful for the research already contained in his note!

In the end, all of our research focused upon local problems and law; most of it was provided to community partners; and most of it was of use to them. The students had the experience of writing high quality seminar papers that someone actually wanted to read and use!

2. Law Review Notes and Directed Study

Because scheduling precluded me from offering the Poverty Law seminar a second year, I advertised that I would supervise directed study papers for students interested in working with community partners. I also invited law review students to discuss note topics with me that might benefit needy groups of clients. I was approached by three different students.

One student was interested in writing a note on a family law topic. I had undertaken a pro bono case for single fathers whose rights had been violated by an adoption agency that refused to grant
him custody of his child. After the successful conclusion of the custody case, the judge asked the guardian ad litem for the child to explore a suit against the agency. I told the student about the case and the research question, and he wrote (and published) his note on the question of what causes of action exist for such a father. Thereafter I filed suit against the agency on behalf of the fathers and the case was settled for money damages.

Certain social service professionals had discussed with me problems in providing services to "independently homeless youth – runaway and throwaway minors." These professionals felt constrained in how these youth could be helped by various legal obligations to report children as abused and neglected and by possible liability for serving or treating minors without parental consent. A student volunteered to research this as a directed study project. She produced a comprehensive analysis of the legal issues as well as a survey of various models other states have used to address this problem. We are now at the point of sharing our analysis and ideas with interested members of the community who serve these youth.

Last summer a visiting colleague (economist-law professor) and I were offended by local journalistic commentary regarding spend-thrifts seeking bankruptcy protection. We combined my knowledge of poverty law and his knowledge of economic statistics and wrote a short op-ed piece arguing that moral failings are not the most likely explanation for our state's high rate of personal bankruptcy. Interested in our op-ed scholarship, a law review student asked for our guidance in writing a law review note on the topic of bankruptcy in our state. I was able to direct him to local researchers at another university who were studying that topic as well as well to national studies about bankruptcy. He has not only written his note on this topic, but has won a graduate program grant to engage in further empirical work on the causes of bankruptcy in our state. While no community clients are currently involved, certain law makers and poverty law advocates will be interested in using the findings from this study.

3. Community Justice Study

This past year my university initiated a University-Neighborhood Partnership with the intention of expanding our service-learning endeavors and promoting civic engagement in research and advocacy for the community. I was permitted to develop a seminar designed to study what ways the law school should contribute to this endeavor.

This seminar has expanded to a multifaceted study of local legal resources for and needs of low and moderate income individuals in this community. We studied best practices in various service delivery
modalities (including brief advice, pro se representation, community education, community development, support for solo practitioners, as well as traditional full-service representation.) Students presented papers addressing various service delivery approaches, surveying what was currently done in our state, summarizing best practices and innovations in other communities, and making proposals to enhance justice in our community. Other students researched particular areas of law (consumer problems, environmental discrimination, education law) that had already been identified as prevalent in the local target community. We hope to provide our papers to local legal service providers, to leaders in the bar, and to the university and law school communities. The results of this seminar may be able to provide guidance for various projects and programs for some time to come, and will help the law school decide how to become engaged in civic engagement.

B. Civically Engaged Research Occurring at Other Law Schools

After presenting this paper at the conference Externships²: Learning from Practice,78 I learned of other work by extern clinicians that comports with the goals of civically engaged scholarship. More recently I “researched” other programs by posting an inquiry on the Clinical Law listserv. I received almost 30 responses and was astounded by the breadth and depth of such research. It is my hope that sharing these examples and providing this theoretical framework will encourage all law schools to offer courses and programs that support and encourage student research in partnership with and to benefit the community.

Let me set forth the various approaches I discovered. Of course, faculty engaged in their own research may undertake to conduct a study for a legal services program or bar organization.79 (I do not focus on faculty research here, however.) There are numerous models for involving students in community-based research.

78 The conference Externships²: Learning from Practice, was held March 7 - 8, 2003 at the Catholic University of America, Columbus School of Law.
79 Mary Helen McNeal of the University of Montana, as chair of the Montana Supreme Court’s Equal Justice Task Force, has been assisting with a legal needs study. Email from Mary Helen McNeal (Aug. 6, 2003) (file with author). Professor Vance Cowden of the University of South Carolina received a grant from the state bar foundation to conduct empirical research on the delivery of indigent defense services. Email from Vance Cowden, Aug. 7, 2003 (file with author). See also Vance Cowden, Indigent Defense for Post-Conviction Relief in South Carolina: Current Problems and Potential Remedies, 42 S.C. L. REV. 417 (1991). Professor Chris Zawisza partnered with the Florida InterUniversity Consortium on Children, Families and Communities to conduct two studies on welfare reform. I chose not to focus upon community-based research conducted solely by faculty, but upon the research that involves students.
First is what I will call the “externship research” model in which individual students partner with individual agencies, each undertaking a research project for the agency and all being supported in an externship research seminar. Next is research undertaken by an entire class as a major research project, falling within the “problem-based service learning” or “academically-based community scholarship” models discussed above. Both of these models involve a class or seminar base for the work, which may narrow or broaden the topics of study. Finally, there is the possibility of the law school supporting various research projects needed by the community and inviting students to pursue such projects in various academic contexts, including law reviews notes, seminar papers or as pro bono projects.

1. The Externship Research Seminar

The externship research seminar differs substantially from students simply performing legal research in their externships. Instead, students consciously develop a seminar paper that will benefit the community placement and will also constitute a substantial research and writing project for the seminar. Students may come to this project after having worked in a placement or may partner with the community agency solely for this purpose. The externship seminar may sponsor topics in wide-ranging areas of law or may focus on particular legal issues. This approach appears to be widely used by various clinicians throughout the country. In some cases the range of research topics is wide; in other situations the seminar focus upon one area of substantive law or client group. In some cases there is credit for externship work separate from credit for the seminar; in other cases the seminar paper is the research provided to the community partner.

Professor Lisa Lerman of Catholic University offers the year-long Public Policy Practicum in which third-year students work as externs in policy-making settings and enroll in an accompanying seminar. Professor Lerman requires that the students complete major seminar papers arising out of the work done in their placements. These papers should benefit the placements as well as qualify as a substantial works. A similar program is offered by Professor Peter Edelman of Georgetown through his Social Welfare Law Seminar and field component. The students’ research papers grow out of their work at the placements, touching upon issues of poverty from the local, regional

---

80 I consider my Poverty Law Seminar to comport with this model. I permitted students to continue work with agencies they already know or to find agencies for this alone, but limited the topic to issues of concern to poor and low-income individuals.

or national perspective.82

Other schools also offer wide ranging opportunities to serve through research. Brigham Young University's Professor James Back- man offers a course in which students solicit research inquiries from community groups and complete research projects under his supervi- sion that will meet the needs of the community partners while fulfilling research and writing requirements for BYU. Professor Mary Helen McNeal of the University of Montana teaches a course in Public Interest Lawyering and offers these students an opportunity to write a paper useful to a nonprofit legal provider.83 Fordham's Advanced Seminar in Public Interest Advocacy84 arranges for students to work in groups of 3-5 on projects in conjunction with New York City public interest law offices. Recent projects have included an analysis of lawyer-social worker collaboration in light of a law requiring social workers to report abuse, study of legal services to the chronically ill, and development of a protocol for protection and advocacy agencies to monitor residential facilities for the developmentally disabled, among others.85

At the University of Tennessee, Professor Fran Ansley teaches two courses where students carry out field projects in collaboration with community-based organizations, local agencies, and lawyers, to serve people who face difficulty in gaining access to legal information and legal representation. Examples of past student projects are va- ried. Students worked with a grassroots economic justice group to draft a proposed living wage ordinance. Others learned of problems involving one-sided lease-purchase agreements often marketed to un- documented immigrants and others unable to access traditional mort- gage loans. They prepared an informational brochure to advise home buyers about these dangers in home finance. Students created an educa- tional video explaining and criticizing the spousal rape exemption that is a feature of Tennessee law. It was screened for members of the Tennessee General Assembly and to groups dealing with domestic vi- olence. Students have also worked with educational and theatrical groups to stage productions that teach about the law while also entertaining.86

Often seminars on pre-defined topics support community-based research. Professor Scott Burris of Temple Law School teaches a

82 Email from Holly Eaton, Georgetown University (Aug. 21, 2003) (on file with author).
83 Email from Mary Helen McNeal (Aug. 6, 2003) (on file with author).
85 Email from Bruce Green (Aug. 6, 2003) (on file with author).
86 Email from Professor Frances L Ansley (Dec. 2003) (on file with author).
course called Public Interest Advocacy: AIDS in which “students are assigned to work with community organizations on non-litigation advocacy projects, broadly defined. Over the years students have worked with a needle exchange program to win legal recognition in Philadelphia, worked with a legal service organization to draft a standby guardianship bill. . . performed a legal needs assessment among needle exchange clients, [and] collaborated with a pharmaceutical access advocacy coalition in drafting compulsory licensing provision for essential drugs.”

Domestic violence seminars support such research. Professor Mary Lynch of Albany pairs the students in her domestic violence seminar with local shelters, legal services organizations and governmental offices to allow them to research topics of interest to these groups. Similarly, Professor Ruth Ann Robbins of Rutgers (Camden) provides research topics to her Domestic Violence Practice and Procedure class based on requests from local legal service and battered women’s programs, and then passes on the resulting papers.

Classes in poverty law, elderlaw, and immigration law have been used to support community based research. Professor Alicia Ouellette of Albany teaches a course in Law and the Disadvantaged in which students participate in a pro bono legal project in the community and write a paper for the class informed by this experience. The paper must address the provision of legal services to people in poverty and the legal system’s reliance on volunteer attorneys. Professor Jennifer Wright of the St. Thomas School of Law has her elder law clinic students conduct brief research projects on issues identified by the elder law advocacy community. Professors Louise McKinney and Judy Lipton worked with the American Immigration Lawyers Foundation to identify topics for student papers, and submitted the resulting papers to AILF.

Professor Kim Diana Connolly of the University of South Carolina School of Law offers her Environmental Advocacy students the option of writing a paper as “applied research” by selecting research topics suggested by various environmental groups, government agen-

---


88 Email from Professor Mary Lynch (Aug. 8, 2003) (on file with author).

89 Email from Professor Ruth Ann Robbins (Sept. 16, 2003) (on file with author).

90 Email from Professor Alicia Ouellette (Sept. 22, 2003) (on file with author).

91 Email from Professor Jennifer Wright (Aug. 6, 2003) (on file with author).

cies and other environmental stakeholders.93

In an Access to Justice Seminar at the University of Southern California students prepared papers on topics suggested by the California Access to Justice Commission. The students’ papers were circulated to members of the Commission and their titles posted on various listserves. A few of the best have been published on the National Equal Justice Library website.94

Professor Peter Joy of Washington University taught a comparative ethics class in which six of his students worked on a project, sponsored by the Central European and Eurasian Law Initiative (CEELI), for the Chamber of Advocates of Kosovo regarding its ethics rules and lawyer discipline system.95 The University of Michigan supports the Program for Cambodian Law and Development in which students and faculty “do work for human rights NGO’s in Cambodia as well as [for] some government ministries.” Projects have included studies of judicial practices in rape cases, term limits for elected officials, and defense of protesters seeking to prevent toxic dumping.96

2. Class Projects

At various law schools a faculty members leads the entire class in a research or law reform project.97 In some cases these class projects are designed by the faculty member in light of a community need or issue. Sometimes students’ other clinic work uncovers a systemic problem that class projects are then devised to address.

At UCLA Professor Gary Blasi teaches the Public Policy Advocacy course in which “students work with clients, organizers and other advocates to devise and implement strategies for changing public policy in a selected area of importance to under-represented groups.”98 A recent project involved research about the conditions of the public schools, resulting in a white paper that drew considerable attention.99 In a prior year students collaborated with a blue ribbon committee on slum housing, investigated housing code enforcement and prepared

95 Email from Professor Peter Joy (Aug. 6, 2003) (on file with author).
96 Email from Professor Nick Rine, (Aug. 6, 2003) (on file with author).
97 I consider my Community Justice Study Seminar to most closely resemble this model. Although each student prepared an independent research paper, the scope of coverage and topics were pre-designed to survey the variety of service delivery mechanisms and to explore topics the community had already identified as of interest.
99 Id. See also email from Professor Gary Blasi (Aug. 6, 2003) (on file with author).
recommendations that were adopted by the City of Los Angeles.\textsuperscript{100} They also worked with the Empirical Research Group to evaluate the effectiveness of a "pro per" assistance program operated by a legal services organization at a courthouse.\textsuperscript{101}

At Columbia University the Center for Public Interest Law supports various seminars that engage in community based research. Professor Susan Sturm's seminar involves student research into workplace issues. Professor James Liebman and Chuck Sable have involved students in their empirical studies of the death penalty.\textsuperscript{102}

The University of Denver Law School civil clinic has worked with the University's Office of Community Based Research on topics for community partners, including developing narrative descriptions of the lives of contingent workers, surveying local and state law on contingent workers, and beginning to develop a library of sources on organizing and advocacy theories.\textsuperscript{103}

In a few instances, first-year students have been involved in legal research and writing for the community. Professor Rebecca Cochran developed a legal writing project for her first year class at the University of Dayton School of Law that combined service and research skills. The class partnered with the Dayton Volunteer Lawyers Project to support its continuing legal education program. They updated the CLE materials regarding employment discrimination, relying upon certain "mock" scenarios that were in use.\textsuperscript{104} Northeastern Law School has a mandatory first-year course called Law, Culture and Difference. During the fall semester the students learn critical legal analysis and the rudiments of working as a team. During spring semester 15-person teams undertake research projects on social justice issues at the request of organizations throughout the country. As a result "15,000 hours of pro bono work are donated annually to systemic social justice issues."\textsuperscript{105}

Students may assist in "legal needs" studies. Clinic students from Lewis and Clark law school assisted the Legal Aid Services of Oregon to complete a legal needs study by interviewing subjects at community shelters and centers about their legal problems. The project was con-

\textsuperscript{100} Id. and website, supra note 98.

\textsuperscript{101} Id.

\textsuperscript{102} Email from Professor Ellen Chapnick (Aug. 6, 2003) (on file with author); www.law.columbia.edu/center_program/public_interest/torch? (last visited Feb. 10, 2004).

\textsuperscript{103} Email from Doug Smith, formerly of University of Denver, August 6, 2003 (on file with author).

\textsuperscript{104} See Rebecca Cochran, Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service, 8 B. U. PUB. INT. L.J. 429, 444-47 (1999).

\textsuperscript{105} Email with attached course description from Prof. Margaret Woo (Aug. 7, 2003) (on file with author); email from Susan Maze-Rothstein (Aug. 8, 2003) (on file with author).
ducted in cooperation with Portland State University which designed the questions and tabulated the results. University of Colorado Indian Law Clinic is exploring the possibility of conducting a legal needs study of the Native American population in conjunction with the Colorado Bar Foundation. Professor Gabrielle Davis of the University of Toledo worked with the Ohio State Bar Foundation, the university’s Education Department and the university’s Urban Affairs Center on a county-wide legal needs assessment.

Domestic violence projects can arise from clinic representation. University of Missouri law students partnered with journalism students to examine the response to domestic violence in four rural counties. This project was undertaken after the law school clinic became frustrated with a lack of enforcement of protective orders. This research project uncovered certain systemic problems and resulted in a paper (submitted to the Missouri Bar Association Journal) as well as various television reports. Supervising law professor Mary Beck has been invited to apply for Department of Public Safety funds to complete a state-wide study.

Civil Practice Clinic students at the University of Pennsylvania Law School handle cases for low-income individuals seeking to have “indicated findings of child abuse” expunged from a central registry. After obtaining experience in this area, a student wrote a manual for the local legal services program and the local pro bono program to understand how to handle these cases.

Professor Sally Gertz of Florida State University oversees “public service fellows” – students who receive funding from the bar to do public service work during the summer and also do a public service project during the academic year. During the past year the fellows pursued a joint project suggested by the local legal service program. They investigated and researched the problem of school districts failing to provide statutorily required services to teen parents. Their final work product included a demand letter to a particular district and comprehensive research paper provided to the legal services

---

106 Email from Sandra Hansberger (Aug. 6, 2003) (on file with author).
107 Email from Professor Jill Tompkins (Aug. 6, 2003) (on file with author).
108 Email from Professor Gabrielle Davis (Aug. 12, 2003) (on file with author).
109 Email from Professor Mary Beck (Aug. 6, 2003) (on file with author) (further noting that this project was made possible because the Altia Corporation funded a clinical teaching fellow to work on this investigation). Professor Gabrielle Davis of the University of Toledo has also been involved, in cooperation with police, prosecutors, city council, and the university’s Criminal Justice Department in a long-term research project examining local misdemeanor domestic violence prosecutions. Email from Professor Gabrielle Davis (Aug. 12, 2003) (on file with author).
110 Email from Professor Lou Rulli (Aug. 6, 2003) (on file with author).
3. Infrastructure to Support Community Based Research

A few law schools have established an infrastructure to support on-going community based research in a range of contexts, including in various seminars, for publications, and as pro bono projects. Most comprehensive, perhaps, is the Legal Scholarship for Equal Justice of the Minnesota State Bar.112 This bar committee was formed "to encourage scholarly work by Minnesota law professors and students that help disadvantaged people and contributes to equal justice of all."113 LSEJ creates a list of research topics for use at all four Minnesota law schools. During its first semester of operation, Professor Eric Janus of William Mitchell taught a seminar of students from the four schools on applied legal research to assist the students in undertaking their projects. LSEJ encourages students to consult the list for topics for law review notes, seminar paper topics and directed study projects. LSEJ also commits to disseminating any of the resulting research to the legal services and pro bono legal community.114

Similarly, the Ohio State University sponsors the Pro Bono Research Group, a student-run project providing research assistance to legal services staff in Ohio. A board of six students oversee the operation, approximately 40-50 students participate each year, and most recent statistics show that PBRG provided over 2000 hours of research assistance during one academic year.115 Although this is not a credit-bearing experience, it is a coordinated response to a community need for legal scholarship.116

Projects to design pro bono endeavors to implement after law school have been undertaken at some law schools. Professor Gary Palm reports he had students develop such projects at the University of Chicago law school117 and that a similar course is offered at Yale Law School. Professor Palm's spring semester course was open to

---

111 Email from Professor Sally Gertz (May 7, 2003) (on file with author).
113 Id.
114 Id.
115 See email from Terri Enns (Aug. 6, 2003) (on file with author); email from Professor Louise McKinney (Aug. 6, 2003) (on file with author); email from Gene King, Ohio State Legal Services Association (Aug. 6, 2003) (on file with author).
116 Other law schools, including Rutgers (Camden), University of Tennessee, and University of Utah pair pro bono student volunteers with legal service programs or pro bono lawyers seeking legal research assistance through pro bono programs and/or legal writing/research classes.
117 Conversation with Gary Palm, Montreal, Canada, June, 2002 regarding his prior work at University of Chicago and his knowledge of similar programs at Yale.
third-year students who generally knew in which of various locations throughout the nation they would be practicing. Accordingly, the time is ripe for them to research what public interest programs exist in these communities and to consider what unmet needs there may be. Each student accordingly designs a pro bono plan he intends to implement the next year. Professor Alexis Anderson reports a similar written assignment is required in her externship seminar at Boston College. Her students must design a pro bono project, including a discussion of the client community, description of the unmet need, a time line for all project activities (including any needed training), a bibliography of sources (including persons who are working in the area) and an assessment of the intended impact of the pro bono project.118

C. Externships As a Base for Civic Engagement

Externship programs, with existing relationships in the community, may be uniquely valuable in advancing civic engagement and community based research such as that discussed above. Much of this research may consist of “problem-based service learning” or “academically-based community scholarship” by students enrolled in such externship programs. While most students enroll in these programs to learn the lawyering skills required of the community lawyers, often they become interested in over-arching or intractable problems faced by these offices. While research to solve persistent community problems is not typically the student’s goal, the student may elect to spend additional time focusing upon this more academic inquiry.

Externship programs should understand the powerful movement for civic engagement and should examine whether they should aspire to comprehensive civic engagement. Externship programs already have relationships within the community. Students may be placed with private non-profit legal service or law reform organizations whose mission is service to a segment of the community. In many ways, these externship programs are ideal for considering civic engagement, since the students are already in touch with community groups and issues. Students placed with judges, with prosecutors, and with other governmental offices will also encounter a segment of the community and may encounter opportunities to engage in research that will have a direct benefit to the community.

Indeed, if extern faculty endeavor to learn about larger issues faced by regular placements, researching these issues need not be limited to extern students who want to do more work. Such projects

could be made available to other classes and programs within the law school. Law students have research and writing requirements to fulfill, seminars to take, and law review notes to write. Why shouldn’t the seminar papers be addressed to actual problems facing the community? Why shouldn’t the law review notes be developed to answer legal questions that are currently troubling the community.

Just as important, other (non-externship and even non-clinical) faculty should be invited to design seminars with group research projects for community partners. This will provide service to the community and teach a useful orientation to research and to lawyering roles.

**Conclusion**

All clinical faculty should become acquainted with the movement for civic engagement – including service learning and community based research – to obtain support for and further insight about our pedagogical goals and models and to partner with colleagues in order to provide richer service to the community.

Service-learning is a vibrant approach to education on many campuses. Service-learning pedagogy provides useful guidance and support for clinical programs and particularly for externship programs. Service-learning faculty from other departments can provide mentoring, support and encouragement. Clinicians would do well to be part of the service-learning movement.

Moreover, the evolution of service-learning has been toward broader civic engagement of the campus, promoting scholarship that is conducted in partnership with and to serve the community. Where in-house clinics are engaged in such partnerships with the community (for example, through community development or environmental justice clinics or the use of community advisory boards) they should recognize and claim membership in their university’s “civic engagement” activities.

Such community-engaged clinicians and extern clinicians are ideally situated to reach out to the community and to advance civically engaged scholarship at our law schools. Students can create civically engaged research through existing extern classes. But clinicians should advocate that civic engagement and community based research should be pursued more widely and more creatively throughout the law school. Any faculty member teaching a seminar in which papers might assist a community agency should be solicited to pursue this possibility. Any law review student should be able to consider research topics that could be of use to community agencies serving the disenfranchised. Rather than sitting in the wings as the ugly step-sis-
ter, externships programs should take the lead in encouraging law schools to be more civically engaged and to link with other civic engagement programs within their wider institutions.