

**PUTTING POVERTY LAW INTO CONTEXT:
USING THE FIRST YEAR EXPERIENCE TO
EDUCATE NEW LAWYERS FOR
SOCIAL CHANGE**

*ZOE NIESEL**

Introduction	98	R
I. Poverty Law and the Law School Curriculum	99	R
A. What is Poverty Law?	99	R
B. Poverty Law Within the Law School Curriculum .	107	R
II. ABA Standards and the Role in Poverty Law	113	R
III. The St. Mary’s Experience	115	R
A. Housing the Experience	119	R
B. Poverty Law Exposure in the First Year	122	R
Conclusion	129	R

* Associate Professor of Law, St. Mary’s University School of Law. It is a true privilege to write this article to celebrate the amazing work of Marian Wright Edelman. She is well-known for advocating for positive and progressive changes in communities to increase quality of life, end discrimination, and eliminate apathy. To help more law students find the same voice and skillset, law schools need to expose their students to the realities of local communities and how lawyers are instruments of change and social justice. This article examines the trends and proposes approaches that law schools can use to initiate discussions about poverty and social change from the beginning. Although I have the honor of writing this article, the work could not have been accomplished without the help of my colleagues whose ideas, contributions, and dedication made this possible. First, for the poverty law initiative described, I would be remiss not to thank: (1) former Assistant Dean of Admissions Shelli Soto and current Interim Dean of Admissions Cathy Casiano, (2) the amazing Director of Pro Bono, Greg Zlotnick, (3) the Director of the Law Success Program, Professor Afton Cavanaugh, who made many of the logistics possible, and the Law Success Instructors, who work tirelessly to support our students, (4) Assistant Dean of Career Strategy Robin Thorner, an advocate for pro bono and public service, and (5) the St. Mary’s School of Law administration and faculty for allowing all of us named here to engage in this endeavor. Second, another huge thank you to the editorial team at the NYU Annual Survey of American Law. Finally, thank you to my research assistant Korin Lewis for her invaluable help.

INTRODUCTION

U.S. law schools increasingly emphasize teaching values, ethics, and social justice. Indeed, one of the most progressive aspects of modern legal education is the incorporation of discussions about justice, ethics, morality, and social consciousness in the classroom, especially when combined with opportunities for clinical education and real-world experiences.¹ However, despite this productive shift, many U.S. law schools are not initiating institutional discussions about the duty of the lawyer as an instrument of social change. Students and professors have too few conversations regarding the lawyer's role in fighting poverty and injustice.²

Against this background, law schools are increasingly interested in using practice-readiness simulations to teach and reinforce practice skills and concepts. In fact, the American Bar Association (ABA) has mandated the use of learning outcomes that include the development of professional skills, as well as established a greater focus on professional development and pro bono.

This article seeks to marry two problems in legal education—the problem of struggling to initiate more social justice and service-based learning, and the problem of attempting to place legal problems in their social context—into a harmonious solution. Specifically, this article proposes integrated learning experiences that identify issues surrounding poverty in the local community and encourage students to use legal analysis, communication, cultural competency, and writing skills to serve clients living in poverty. Hopefully, other law schools will consider adopting a similar approach.

1. See Vanita Saleema Snow, *The Untold Story of the Justice Gap: Integrating Poverty Law into the Law School Curriculum*, 37 PACE L. REV. 642, 643–44 (2017) (“In light of the American Bar Association’s *MacCrate Report*, Clinical Legal Education Association’s *Best Practices for Legal Education*, the Carnegie Foundation’s *Educating Lawyers: Preparation for the Profession of Law*, and *Building on Best Practices: Transforming Legal Education in a Changing World* law schools are increasingly reassessing not only students’ pro bono commitment, but other competency-based measures to determine whether the curriculum prepares students for practice.”).

2. See Robert Hornstein, *Teaching Law Students to Comfort the Troubled and Trouble the Comfortable: An Essay on the Place of Poverty Law in the Law School Curriculum*, 35 WM. MITCHELL L. REV. 1057, 1060 (2009) (“Rather than being consigned to the margins of the law school curriculum, however, poverty law and social justice should be prominent fixtures in legal education and should be central institutional concerns of the nation’s law schools. More precisely, poverty law should be a required and animating element of today’s law school curriculum. The reasons why are drawn not from the classroom but from the pages of history and the pressing demands of civil society.”).

Part I examines poverty law and discussions about poverty in the U.S. law school. Specifically, the article examines over fifty years of material on how poverty has been discussed in legal education. A shift occurs over time, with a renewed focus today on pro bono service and clinical education. What is critically important, however, is law schools' failure to produce attorneys with a culture of service and understanding of how to engage in social justice. Part II discusses the newer role of ABA standards in modern U.S. law schools, particularly the standards that would support a greater focus on issues of poverty and social justice.

Part III explores the use of an institutional, integrated approach to teaching students about poverty and the role of the lawyer in combating social injustice. The case study is drawn from St. Mary's University School of Law in San Antonio, Texas, where first year law students engage in a year-long "soft" simulation exercise addressing poverty in the local community. This approach exposes students to the issues of poverty and the role of the lawyer in multiple ways. First, class-wide readings and service projects tackle the problem from a social perspective and encourage students to think about their local community. Students then complete an integrated curriculum using legal writing, client interviewing, appellate advocacy, and legal research skills to represent, through various assignments, a homeless individual charged with aggressive panhandling. Part III also addresses the experience and goals in participating in this yearlong experience, including students becoming more informed about community issues, correcting assumptions about poverty and homelessness, and understanding the roles of law student and lawyer in social context.

I. POVERTY LAW AND THE LAW SCHOOL CURRICULUM

A. *What is Poverty Law?*

Many people in the United States live in poverty; often, they need legal services.³ The scope of the problem is huge—in 2018, there were 38.1 million people, or 11.8% of the population, living in poverty in the United States.⁴ Poverty is not evenly distributed

3. See Barbara Stark, *Theories of Poverty/The Poverty of Theory*, 2009 BYU L. REV. 381, 382; Amy L. Wax, *Musical Chairs and Tall Buildings: Teaching Poverty Law in the 21st Century*, 34 FORDHAM URB. L.J. 1363, 1364 (2007).

4. JESSICA SEMEGA ET AL., INCOME AND POVERTY IN THE UNITED STATES: 2018 1 (2019), <https://www.census.gov/content/dam/Census/library/publications/>

among different demographics of Americans.⁵ For example, women are more likely to live in poverty than men, with 12.9% of women in 2018 living in poverty as compared to 10.6% of men.⁶ Single-parent families are more likely to live in poverty than families with a married couple.⁷ For single-parent families with no husband present, the poverty rate is 24.9%;⁸ 25.7% of individuals with disabilities, one of the most affected groups, live in poverty;⁹ and, sadly, 16.2% of all children in the United States live in poverty.¹⁰

For those 38.1 million people living in poverty, including women, children, and individuals with disabilities, the need for legal services is enormous.¹¹ The problem is compounded by the fact that an additional 17.1% of the population lives close to poverty, meaning their income is less than two times the poverty threshold for a family of that size.¹² For these families close to the poverty line, the need for legal services is just as significant.¹³ In 2017, the

2019/demo/p60-266.pdf [https://perma.cc/Q8W9-XA2Y]. Whether or not someone is living in poverty is determined by using the government's poverty thresholds. In 2018, the poverty threshold, commonly called the "poverty line," was \$12,784 for an individual. For a family of two, the poverty threshold was \$16,247. For a family of three, the threshold was \$19,985, and for a family of four it was \$25,701. *Id.* at 49.

5. See Tim Henderson, *Poverty Grew in One-Third of Counties Despite Strong National Economy*, PEW CHARITABLE TR. (Dec. 19, 2019), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/12/19/poverty-grew-in-one-third-of-counties-despite-strong-national-economy> [https://perma.cc/5SWT-6UP2] ("While 14 of the 20 counties with the biggest poverty increases were southern, some Native American-majority counties also saw big jumps.").

6. SEMEGA ET AL., *supra* note 4, at 13.

R

7. *Effects of Single Parenthood on Poverty*, MARRIPEDIA, http://marripedia.org/effects_of_single_parents_on_poverty_rates [https://perma.cc/36UQ-T3V2] (last visited Oct. 5, 2020) ("In 2015, 49.8 percent of children under 18 who lived with a never married mother were in poverty.").

8. SEMEGA ET AL., *supra* note 4, at 14.

R

9. *Id.* at 13.

10. *Id.*

11. See, e.g., Mary Owens, *Enhancing Access to Legal Services for Youth Experiencing Homelessness*, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS (Oct. 24, 2016), <https://dev2.usich.gov/news/enhancing-access-to-legal-services-for-youth-experiencing-homelessness/> [https://perma.cc/FHH9-XW9P] (explaining that youth experiencing homelessness drastically need legal services in many aspects).

12. SEMEGA ET AL., *supra* note 4, at 52.

R

13. See, e.g., Paul Prettitore, *Does Legal Aid Reduce Poverty?*, BROOKINGS: FUTURE DEV. (June 23, 2015), <https://www.brookings.edu/blog/future-development/2015/06/23/does-legal-aid-reduce-poverty/> [https://perma.cc/5Y6P-TJ46] ("Labor abuses (such as wrongful termination and failure to pay full wages), eviction from housing, debt, and family problems (such as divorce), can all produce insurmountable financial shocks to those near the poverty line.").

Legal Services Corporation reported that eighty-six percent of the civil legal problems reported by low-income individuals received little or no legal help.¹⁴ The types of civil legal issues experienced by low-income individuals are vast—health care, domestic violence, disability access, housing, children and custody, income maintenance, landlord/tenant issues, and veteran’s benefits.¹⁵ Seventy-one percent of low-income Americans experienced a civil legal issue in the last year.¹⁶ As such, there is a significant need for attorneys who practice poverty law to fill this demand.¹⁷

The term poverty law is difficult to define. The more one researches the concept, the more one realizes that poverty law is simply a study of the human condition within the U.S. system of legal justice.¹⁸ It draws on aspects of almost all areas of practice but is ultimately about questioning why civil legal services are the least available to the people who often need them the most.¹⁹

Because the term is so tenuously defined, turning to the development of the field to search its parameters can be enlightening. The 1960s was the decade for the birth of much of the poverty law discussion, both within and outside of law schools.²⁰ The 1964 Eco-

14. LEGAL SERV. CORP., *THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS* 6 (2017), <https://www.lsc.gov/media-center/publications/2017-justice-gap-report> [<https://perma.cc/BAC7-M4RR>].

15. See Henry Rose, *Law Schools Should Be About Justice Too*, 40 CLEV. ST. L. REV. 443, 450 (1992) (“Since [lower-income persons] often rely on government assistance for financial subsistence, they experience a higher incidence of legal problems than any other segment of society. Their legal problems are deeply imbedded in the most serious social issues of our time: discrimination, education, health, shelter, employment, and welfare.”).

16. LEGAL SERV. CORP., *supra* note 14, at 6.

17. There are certain types of civil legal issues that impact low-income households at a high rate. For example, civil issues relating to health care, including debt collection and billing, affect approximately forty-one percent of low-income households. *Id.* at 22. Thirty-seven percent of low-income households experienced civil legal issues relating to consumer and finance problems in the last year. *Id.* After that, other common issues include rental housing, children and custody, and education. *Id.*

18. See *Human Rights Dimension of Poverty*, U.N. HUM. RTS. OFF. HIGH COMM’R, <https://www.ohchr.org/EN/Issues/Poverty/DimensionOfPoverty/Pages/Index.aspx> [<https://perma.cc/P6YM-6X7Z>] (last visited Oct. 5, 2020) (“Poverty erodes or nullifies economic and social rights such as the right to health, adequate housing, food and safe water, and the right to education.”).

19. See Snow, *supra* note 1, at 647 (noting that “[m]arginalized access to the courts and discriminatory laws create additional barriers to low-income households’ abilities to end generational poverty”).

20. That is not to say that before the 1960s the legal challenges faced by the poor were ignored or not discussed. Indeed, in 1923, John MacArthur Maguire published an article in the *Harvard Law Review* discussing “poverty and civil litiga-

R

R

nomic Opportunity Act created the Office of Economic Opportunity, which as a federal agency was charged with administering a multitude of programs to assist those living in poverty.²¹ This included funding to 130 legal service programs, which allowed legal aid offices to open with the “the dual mission of eradicating poverty and increasing access to justice.”²² As such, the lawyers working within these funded programs had a two-fold mission: to attack poverty at the policy level and focus on mechanisms to eradicate poverty and to provide increased legal services to those in need.²³

After the Economic Opportunity Act, the next major step in the United States’ approach to the “poverty problem” was the creation of the Legal Services Corporation in 1974 through congressional passage of the Legal Services Corporation Act.²⁴ The Legal Services Corporation was significant in that it provided a mechanism to ensure that organizations providing civil legal assistance were funded.²⁵ The Legal Services Corporation Act noted that “there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program.”²⁶ Further, it recognized that “providing legal assistance to those who face an eco-

tion.” John MacArthur Maguire, *Poverty and Civil Litigation*, 36 HARV. L. REV. 361 (1923). The article discussed the history of legal assistance to the poor in civil litigation in England and the United States, dating back to the Magna Carta in 1215 and the 1495 English statute 11 Hen. VII, c. 12, which established proceedings in forma pauperis. In analyzing the negative historical relationship between those in poverty and civil litigation, the author specifically noted that importance of expert legal services: “It might seem, at first blush, that if we took the relatively simple step of abolishing costs and fees for poor men we should have done enough. Let the beneficiaries supply their own lawyers. That is fatally wrong. The leading cause of past and present breakdowns in well-meant schemes for solving this great problem has been the neglect properly to supply expert legal assistance.” *Id.* at 363. Further, even in the 1920s, the author saw the opportunity for legal services organizations to lead the charge in helping persons in poverty navigate legal issues: “In the United States an efficient, inexpensive, and satisfactory method of meeting this difficulty has been known for years. Our thirty or more legal aid organizations in all our larger cities, if encouraged to develop and extend themselves, could, in cooperation with the assigned counsel system in smaller communities, provide a complete solution.” *Id.* at 401–02.

21. See *Evaluating the Success of the Great Society*, WASH. POST <https://www.washingtonpost.com/wp-srv/special/national/great-society-at-50/> [<https://perma.cc/ELE2-J75Z>] (last visited Oct. 11, 2020).

22. Snow, *supra* note 1, at 648.

23. See *id.*

24. Legal Services Corporation Act of 1974, 42 U.S.C. § 2996.

25. See generally *id.*

26. *Id.* at § 2996(2).

conomic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons.”²⁷ While these were lofty words, the overall aims were entirely more practical.²⁸ Low-income individuals and families are often unable to afford representation for necessary lawsuits, like landlord/tenant issues, health insurance or billing issues, probate matters, or consumer law issues.²⁹ The goal of the Legal Services Corporation was to provide funding to prevent families from falling into bankruptcy over these necessary lawsuits.³⁰

To meet this mission, the Legal Services Corporation received the power to provide financial support to programs that furnished legal assistance to “eligible clients,” defined as those who could not afford legal assistance.³¹ The entities that the Legal Services Corporation could fund included individuals, firms, corporations, state and local governments, and other entities.³² Much of the Corporation’s work was to provide grants to these entities to ensure that they could continue to provide legal services to those who could not afford legal representation.³³ The Legal Services Corporation describes its work as follows:

The Legal Services Corporation (LSC) [has] the mission to expand access to the civil justice system for low-income Americans. LSC supports civil legal aid organizations across the country, which in turn provide legal assistance to low-income Americans grappling with civil legal issues relating to essential human needs, such as safe housing and work environments, access to health care, safeguards against financial exploitation, and assistance with family issues such as protection from abusive relationships, child support, and custody.³⁴

27. *Id.*

28. *Id.*

29. See Jennifer S. Bard & Larry Cunningham, *The Legal Profession Is Failing Low-Income and Middle-Class People. Let’s Fix That*, WASH. POST (June 5, 2017), https://www.washingtonpost.com/opinions/the-legal-profession-is-failing-low-income-and-middle-class-people-lets-fix-that/2017/06/02/e266200a-246b-11e7-bb9d-8cd6118e1409_story.html [<https://perma.cc/V5Y4-22EL>] (“[Eighty] percent of low-income individuals in the United States cannot afford the legal assistance they need to avoid the loss of their homes, children, jobs, liberty and even lives.”).

30. See 42 U.S.C. § 2996.

31. 42 U.S.C. § 2996a.

32. 42 U.S.C. § 2996e.

33. See *id.*

34. LEGAL SERV. CORP., *supra* note 14, at 9.

Despite the positive mission of the Legal Services Corporation Act, it soon faced significant challenges.³⁵ During the Reagan presidency, a narrative emerged that those living in poverty and using legal services were lazy or entitled. Fueled by this narrative, Reagan sought to defund the Legal Services Corporation completely.³⁶ Even though his proposal ultimately failed, the Legal Services Corporation faced a significant budget reduction, from \$400 million to \$278 million, a reduction which forced many LSC-funded offices to give up litigation initiatives and to remove their appellate divisions.³⁷ Some offices did not survive the cuts and were forced to close, leaving those living in poverty with fewer legal resources.³⁸

Ultimately, the Reagan-era reduction in funding to legal service providers came to an end with a changed political climate.³⁹ During this period of renewal, LSC began assisting clients who faced poverty because of a variety of factors, including race, immigration status, education, and limited access to information on legal representation.⁴⁰ Further, organizations began to recognize that even for those individuals technically living above the poverty line, access to legal resources was still significantly limited.⁴¹

With people both below and technically above the poverty line struggling to receive legal services when needed, today's demand

35. See LEGAL SERV. CORP., LEGAL SERVICES CORPORATION STRATEGIC PLAN 2012-2016, 1-2 (2012), [https://www.lsc.gov/sites/default/files/LSC/pdfs/BOD%208-31-\(5\)%20LSC%20Strategic%20Plan%20—%20August%20DRAFT%20\(08202012%20DRAFT\)\(LSC%20MANAGEMENT%20EDITS%20—%20CLEAN%20VERSION\).pdf](https://www.lsc.gov/sites/default/files/LSC/pdfs/BOD%208-31-(5)%20LSC%20Strategic%20Plan%20—%20August%20DRAFT%20(08202012%20DRAFT)(LSC%20MANAGEMENT%20EDITS%20—%20CLEAN%20VERSION).pdf) [<https://perma.cc/66GG-YCHF>] (explaining the financial challenges that all civil legal assistance programs face with reduced funding).

36. See Stuart Taylor, *Legal Aid for the Poor: Reagan's Longest Brawl*, N.Y. TIMES (June 8, 1984), <https://www.nytimes.com/1984/06/08/us/legal-aid-for-the-poor-reagan-s-longest-brawl.html> [<https://perma.cc/6KFT-H7ZY>].

37. William Booth, *Attacked as Left-leaning, Legal Services Suffers Deep Cuts*, WASH. POST (June 1, 1996), <https://www.washingtonpost.com/archive/politics/1996/06/01/attacked-as-left-leaning-legal-services-suffers-deep-cuts/caee36f5-114e-4068-899e-5e559ab7954a/> [<https://perma.cc/9JM5-F895>].

38. See *id.*

39. See Earl Johnson, Jr., *A Momentous Event in Legal Services History: ABA's 1965 Endorsement of the Federal Legal Services Program*, GEO. L. LIBR. (Feb. 27, 2015), <https://blogs.commonsgeorgetown.edu/righton/2015/02/27/a-momentous-event-in-legal-services-history-abas-1965-endorsement-of-the-federal-legal-services-program/> [<https://perma.cc/SRB6-ZWWN>] (“In the 1980s, when the Reagan administration sought to defund the Legal Services Corporation, the ABA organized a ‘march on Washington’ with lawyers brought in from around the country to meet with their Senators and Congressman.”).

40. LEGAL SERV. CORP., *supra* note 14.

41. See *id.* at 6 (examining justice gap for those living at or below 125% federal poverty line).

for free or discounted legal services vastly exceeds the supply of attorneys who can assist.⁴² Limited funding and staffing means that legal services organizations have to deny applications from low-income persons who seek their services, simply because they cannot meet the need.⁴³ Some of this great need is met by attorneys who may not work for legal service entities, but who are engaging in pro bono service.⁴⁴ After all, rule 6.1 of the American Bar Association Model Rules of Professional Conduct states that “[e]very lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.”⁴⁵

Despite this language, and the adoption of the Model Rule 6.1 by forty-three states,⁴⁶ attorneys do not provide enough pro bono service to those living in poverty.⁴⁷ Private lawyers outnumber public interest lawyers on a scale of ten to one.⁴⁸ But despite their superior numbers, these private attorneys fail to provide assistance to those who need legal services—attorneys “at the one hundred most financially successful firms donate, on average, a mere 8 minutes per day annually to pro bono work.”⁴⁹ Further, private attorneys provide less than half an hour of pro bono service per week, and most of that is to family, friends, or charitable causes that do not include low-income individuals.⁵⁰ Because of statistics like these,

42. As discussed below, the law schools must rise to help meet this staggering demand. See Sara K. Rankin, *The Fully Formed Lawyer: Why Law Schools Should Require Public Service to Better Prepare Students for Private Practice*, 17 CHAP. L. REV. 17, 20 (2013) (“The crippling lack of representation for non-profits and indigent populations—people and entities that typically cannot afford legal services—is well documented. . . . Law students and faculty are capable resources that can help to fill this gap.”).

43. See Rebecca Buckwalter-Poza, *Making Justice Equal*, CTR. FOR AM. PROGRESS (Dec. 8, 2016, 9:03 AM), <https://www.americanprogress.org/issues/criminal-justice/reports/2016/12/08/294479/making-justice-equal/> [https://perma.cc/6HN3-WJP6] (“In 2015, an individual had to make less than \$14,713 per year – a family of four, less than \$30,313 per year – to be eligible for Legal Services Corporation aid.”).

44. See Standing Comm. on Pro Bono and Pub. Serv., *Pro Bono*, A.B.A. (July 26, 2018), https://www.americanbar.org/groups/legal_education/resources/pro_bono/ [https://perma.cc/766P-XQWH].

45. MODEL RULES OF PRO. CONDUCT r. 6.1 (AM. BAR ASS’N 2019).

46. See Leslie Boyle, *Meeting the Demands of the Indigent Population: The Choice Between Mandatory and Voluntary Pro Bono Requirements*, 20 GEO. J. LEGAL ETHICS 415, 419 (2007).

47. See *id.* at 420.

48. See *id.* at 418.

49. *Id.* at 419.

50. See *id.*

four-fifths of the legal needs of low-income individuals remain unmet.⁵¹ Low-income Americans approached legal services organizations for 1.7 million legal problems in 2017, and less than half of those problems could be fully addressed due to lack of resources.⁵² More lawyers must bring their skills to poverty law, even if on a pro bono basis.⁵³

Again, the definition of poverty law can be difficult to pin down, but it certainly embraces the representation of clients who cannot afford to retain legal services when presented with a situation that would normally require someone to do so.⁵⁴ Practice in poverty law can include a range of skills and practices for an attorney—litigation, counseling, policy advocacy, and negotiation.⁵⁵ As such, poverty law can include almost any traditional area of practice, but it largely focuses on “any area of law that touches the lives of individuals living in poverty.”⁵⁶

For those who practice poverty law, especially those entering from the private sector to do pro bono work, there are significant limitations on lawyers’ ability to help low-income clients. First, private attorneys need to have a firm culture that is supportive of engaging in service.⁵⁷ Standards of behavior in this space are largely tied to firm culture, and while many firms are incentivized to encourage pro bono work, not all do.⁵⁸ Further, attorneys may lack

51. *See id.* at 420.

52. *See* LEGAL SERV. CORP., *supra* note 14, at 6.

53. Boyle, *supra* note 46, at 418 (“The amount of free legal aid that is currently available from both public interest and private practice attorneys is far below what is needed to address the increasing legal needs of our growing indigent population.”).

54. *See generally* *What is Poverty Law?*, LEGAL CAREER PATH, <https://legalcareerpath.com/poverty-law/> [<https://perma.cc/59RA-53S3>] (last visited Oct. 12, 2020).

55. *See id.*

56. Snow, *supra* note 1, at 652; *see also* Martha F. Davis, *The Pendulum Swings Back: Poverty Law in the Old and New Curriculum*, 34 *FORDHAM URB. L.J.* 1391, 1395 (2007) (discussing the difficulty of addressing the definition of poverty law, but noting that “poverty law is innately broad, global, interdisciplinary, and focused on social change”); Stephen Loffredo, *Poverty, Inequality, and Class in the Structural Constitutional Law Course*, 34 *FORDHAM URB. L.J.* 1239, 1241 (2007) (“[P]overty law might be understood as a reference to the substantive areas in which lawyers for the poor have carried on this new kind of practice, areas as diverse as welfare law, family law, housing law, consumer law, employment law, and education law—frequently intermixed with innovative theories of constitutional law and administrative law—and the distinctive approaches to those areas dictated by the needs and goals of economically distressed communities and individuals.”).

57. *See* Snow, *supra* note 1, at 660.

58. *See id.* (“Building a firm culture of pro bono may help to reconcile the dual and conflicting demands of operating to increase firm value and fulfilling

R
R

R

R

the cultural competency or practical skills to deal with low-income clients.⁵⁹ Firms or the state bar would need to provide adequate training on the types of legal issues, and the skills, needed to be successful in representing low-income clients.⁶⁰ Actual legal services providers are already stretched to handle the sheer volume of work that comes their way;⁶¹ thus, the profession cannot expect them to bear the financial and time costs of training private sector attorneys to handle cases.⁶²

B. Poverty Law Within the Law School Curriculum

Poverty law within the law school curriculum is not a new concept—it has been in place since at least the 1960s,⁶³ when “law schools developed a growing range of poverty law-related courses in response to the external interests of foundations, potential law student employers, client activists, the legal profession, and policy makers.”⁶⁴ These external pressures also resulted in external funding to drive poverty law programs forward; for example, from the late 1950s to the mid-1960s, the Ford Foundation provided \$800,000 in funding to help nineteen law schools establish clinical programs to help underserved persons within local communities.⁶⁵ This grant, however, was largely focused on providing better skills training to burgeoning attorneys, rather than providing legal services.⁶⁶ The success of the program ultimately resulted in over one hundred clinical programs at various law schools, to the tune of over \$13 million in grants from the Ford Foundation.⁶⁷

While the Ford Foundation grants were critical to jumpstarting clinical education—which has the two-pronged mission of provid-

societal obligations. Also, pro bono work is an effective recruitment tool and generates positive public relations for the firm.”).

59. See Nelson Miller, *Beyond Bias—Cultural Competence as a Lawyer Skill*, MICH. BAR J., June 2008, at 38.

60. See *id.* at 38–39.

61. See Stephen Wizner, *Is Learning to “Think Like A Lawyer” Enough?*, 17 YALE L. & POL’Y REV. 583, 584 (1998) (“It is beyond dispute that there are not enough lawyers providing legal services to the growing numbers of the poor among us . . . most poor people are forced to deal with their legal problems without the benefit of any legal assistance.”).

62. See *id.* at 584–85.

63. See Wax, *supra* note 3, at 1364 (“The presentation and design of these initial courses were strongly informed by left-leaning assumptions about the nature of poverty and its origins.”).

64. Davis, *supra* note 56.

65. *Id.* at 1396.

66. See *id.*

67. See *id.* at 1397.

R

R

ing professional experiences to students and providing legal services to the community—were invaluable, additional initiatives focused on legal services created a “cross-over” between law schools and non-profit organizations.⁶⁸ For example, grants in the early 1960s by organizations like the National Institute for Mental Health and the President’s Committee on Juvenile Delinquency created grassroots initiatives to work with people experiencing poverty at the local level, particularly with regards to social services.⁶⁹ The funded organizations came to realize the importance of including attorneys in the discussion in order to provide more full-fledged services.⁷⁰

The role of attorneys was ultimately more formalized after Edgar and Jean Cahn⁷¹ proposed neighborhood legal services offices in their article *The War on Poverty: A Civilian Perspective*. These neighborhood legal services offices were ultimately established and funded through federal grants.⁷² The creation of widespread legal services offices incentivized additional training programs in the areas of poverty law and also provided employment opportunities to new lawyers in these areas.⁷³ This need for additional training and more practice to ready graduates to fill legal services opportunities reached the law schools, with more institutions providing clinical offerings, poverty law courses, and skills training.⁷⁴ Suspiciously absent, however, was a greater discussion of social justice and the role of the lawyer in addressing community concerns.⁷⁵ The lack of such

68. *See id.*

69. *See id.*

70. Davis, *supra* note 56, at 1397.

R

71. The Cahns ultimately went on to found Antioch Law School, which had a mission to provide justice to the underserved and used clinical education as a cornerstone of the curriculum. *See* Linda Greene, *The Justice Mission of the Law Schools*, 40 CLEV. ST. L. REV. 353, 356 (1992) (“CUNY, Antioch, Washington, D.C., and the University of Maryland have programs that seek to integrate justice concerns throughout their curriculum.”); Hornstein, *supra* note 2, at 1068–69 (“Social justice was the hallmark of Antioch Law School’s educational mission.”).

R

72. *See* Davis, *supra* note 56, at 1398 (“Providing legal representation to poor people was not an innovation. The new network of federally-funded legal services offices nationwide augmented the existing nationwide patchwork of legal aid offices, staffed by an estimated four hundred lawyers operating under the auspices of local bar associations and other private or municipal sponsors.”); *see also* Edgar S. Cahn & Jean C. Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317, 1334 (1964).

R

73. Davis, *supra* note 56, at 1398.

R

74. *See id.* at 1392.

75. *See id.* at 1398 (noting that in response to this situation, “Patricia Wald wrote in her Working Paper for the 1965 National Conference on Law and Poverty, ‘law schools . . . must be prepared to reconsider their traditional preoccupa-

conversations meant that it would be more difficult to address poverty law in its greater social context.⁷⁶ Community leaders and legal services providers of the 1960s firmly believed that the law could be an instrument of social change, and that lawyers should be trained not just to handle legal cases for persons in poverty, but rather to be agents in a larger movement to eradicate poverty and address its systemic roots.⁷⁷ That said, the numbers are still impressive. By 1969, U.S. law schools had responded to the increased federal funding and greater social spotlight put on poverty by offering more courses that touched on issues of social justice and poverty law.⁷⁸

The rapid expansion of poverty law offerings in the 1960s were curtailed in the 1980s, only to reemerge after with a renewed sense of vigor.⁷⁹ Thanks again to funding from the Ford Foundation, an Interuniversity Consortium on Poverty Law composed of academics from Harvard, UCLA, and Wisconsin (and later additional universities) formed “to mobilize, increase and improve the commitment of law school resources to the critical task of attacking the root causes and tragic effects of poverty and disadvantage in America.”⁸⁰ Courses and texts developed through the Consortium’s efforts provided new experiences to law students, although the frustration of students and professors at initiating meaningful social change was noted.⁸¹

tion with the world of corporate finance, taxes, and property and to accept a greater role in the administration of justice.”).

76. *See id.* at 1399.

77. *See id.* (“[T]he new courses on poverty law were never intended to stop at teaching about the laws affecting poor people. Implicit in the very notion of poverty law was the social and political agenda of ending poverty.”); *see also* Hornstein, *supra* note 2, at 1066 (“The analytical, technical, and practice skills that form the centerpiece of a legal education should be informed by a concern for justice.”).

R

78. Davis, *supra* note 56, at 1392. (citing the Proceedings of the National Conference on the Teaching of Anti-Poverty Law 3, App. 1 (1970); further, noting that once poverty law courses were established, specific casebooks in the area could be developed); *see also* PATRICIA M. WALD, LAW AND POVERTY: 1965, 91 (Abram Chayes & Robert L. Wald eds., 1965) (“In the past year, several major law schools—Harvard, Pennsylvania, California, Georgetown, and New York University—have introduced courses dealing specifically with Law and Poverty.”).

R

79. *See* Davis, *supra* note 56, at 1395–1402; *see also* Howard S. Erlanger & Gabrielle Lessard, *Mobilizing Law Schools in Response to Poverty: A Report on Experiments in Progress*, 43 J. LEGAL EDUC. 199, 199 (1993) (“Attention to poverty law, a prominent subject of legal study in the 1960s and early 1970s, faded during the late 1970s and 1980s. [In the 1990s], however, there has been a resurgence of interest.”).

R

80. INTERUNIVERSITY CONSORTIUM ON POVERTY L. & FORD FOUND., TOWARD THE MOBILIZATION OF LAW SCHOOLS FOR POVERTY LAW ADVOCACY 1 (1992).

81. Davis, *supra* note 56, at 1403.

R

Also of note was the publication of the ABA Report of the Task Force on Law Schools and the Profession, a 1992 publication that encouraged the use of a practice-ready model for law school education.⁸² But with the high need for competent attorneys to handle cases for low-income persons, it is perhaps no great leap to think that law school could provide an appropriate training ground for this type of skill.⁸³ The skills a successful attorney would need to handle cases in the poverty law context—legal reasoning, analysis, legal writing, issue spotting, cultural competency, empathy—are all skills that a law school curriculum should provide.⁸⁴

Many applicants to law school are motivated by a desire to serve others.⁸⁵ Admissions committees often read about how a student is seeking admission to a J.D. program in order to help the underserved.⁸⁶ But despite this widespread sentiment, the law school curriculum and the law school experience do little to fully grow this desire⁸⁷ into skills and experiences that can lead to a practice focused on service and social justice.⁸⁸ Further, law schools that

82. See *id.* at 1404; AM. BAR ASS'N, TASK FORCE ON THE FUTURE OF LEGAL EDUC., REPORT AND RECOMMENDATIONS 24 (2014), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.pdf [https://perma.cc/UYR5-WY2D].

83. See Miller, *supra* note 59, at 39.

84. See *id.* at 38 (“A lawyer’s cultural competence goes beyond avoiding bias. To serve diverse clients, lawyers should have special communication and interpersonal skills. Those skills can be taught and learned.”).

85. Additionally, more law students are motivated by a desire for social change. See Erlanger & Lessard, *supra* note 79, at 210. (“More and more students are coming to law school with extensive life experience and sophisticated perspectives about social problems.”).

86. See Hank Stout, *5 Reasons Why Law School Is Wrong For You (and 5 Reasons Why It’s Right)*, ABA FOR L. STUDENTS: BEFORE THE BAR (June 28, 2017), <https://abaforlawstudents.com/2017/06/28/5-reasons-law-school-wrong-5-reasons-right/> [https://perma.cc/U2G6-4TZ9] (“As a lawyer you will have countless opportunities to change the lives of others for the better.”); but see Steven Chung, *4 More Types of People Who Should Not Go to Law School*, ABOVE THE L. (Mar. 23, 2016, 10:06 AM), <https://abovethelaw.com/2016/03/4-more-types-of-people-who-should-not-go-to-law-school/> [https://perma.cc/PMC3-HZPT] (“Many people claim to want to go to law school because of some vague notion of helping people or making a difference in the world or their communities.”).

87. See Rose, *supra* note 15, at 444–45 (noting that incoming law students “view a legal career as an opportunity to contribute to the advancement of social good. These altruistic aspirations are often subverted by the process of legal education . . . [and] the number of students who plan to pursue full-time careers in public interest work declines by half in law school.”).

88. See Snow, *supra* note 1, at 643 (“A traditional law school curriculum can effectively extinguish students’ fire in the belly for social justice.”). Many law

R

R

have attempted to introduce this type of experience, usually by offering specialized courses on poverty law or various social justice issues, have met resistance from students, who may see these courses as not teaching “real law.”⁸⁹ Limited exposure to real-world issues of poverty and community engagement moves students away from their initial desire to serve others and instead focuses them on the types of incentives rewarded during the law school experience, such as performance on black-letter tests.⁹⁰ As such, the lack of emphasis in this area reroutes students to a more traditional focus, despite their aspirational admission essays, and largely dries up interest in service or social justice.⁹¹ Sadly, this dynamic has consequences that expand into practice and into larger professional concerns about the attorney’s role in social change or public service.⁹²

Indeed, U.S. law schools have generally been unsuccessful in creating a culture of pro bono service to extend into practice,⁹³ a

schools do offer excellent clinical opportunities that provide training in this area, but there is rarely a schoolwide initiative to create opportunities and training for students to represent low-income clients. *See id.*

89. Erlanger & Lessard, *supra* note 79, at 209 (noting that students enrolled in poverty-focused classes “complain[ed] that they were not learning ‘real law’ or that a specific political perspective was being imposed on them.”). These complaints may be due to “students’ insecurities about their emerging legal skills or professional goals. Students who have chosen to pursue legal careers have made an investment in the law as an institution and may feel threatened about that choice when it is suggested that the legal system perpetuates and legitimates social inequality.” *Id.*

R

90. *See id.* at 209 (“Acculturated law students learn to ‘think like lawyers,’ rejecting emotional and normative concerns in favor of specific rules and doctrinal approaches. This emphasis on rules clashes with attempts to identify broad theories of law or to locate law within social contexts.”). Erlanger and Lessard note specifically that “[e]xperience has demonstrated that a significant number of students who enter law school with public interest career goals abandon those goals during law school. There are many reasons for this change. Some, such as the general legal culture, the market for legal jobs, students’ work experience, and changes in family needs, are external to the law school. Others, including the formation of a student culture that devalues public interest employment, occur within the law school context.” *Id.* at 225.

91. Wizner, *supra* note 61, at 589 (noting that a traditional law school curriculum “encourages [students] to suppress feelings, like compassion, and moral concerns, like the desire to work for social justice—feelings and moral concerns that they brought with them to law school, and that may, in fact, have brought them to law school”).

R

92. *See id.*

93. *See* Erlanger & Lessard, *supra* note 79, at 208–09 (“Although most law students do not pursue public interest practice, many enter law school idealistic about the role of law in society and the potential for lawyer public service. While

problem that is especially significant considering that too few attorneys are engaging in pro bono service after they leave law school.⁹⁴ The ABA Standing Committee on Pro Bono and Public Service has written that “[w]hen society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people.” As such, prospective law students should be mindful of whether a particular school will supply the necessary foundation for pro bono service.⁹⁵ In July 2018, the Standing Committee on Pro Bono Service reported that at least thirty-nine U.S. law schools require students to engage in pro bono or public service as a requirement for graduation.⁹⁶ The benefits of these programs are significant. They develop student skills in legal analysis, writing, research, professionalism, and community awareness and engagement.⁹⁷ Further, the opportunities for pro bono practice also expose students to different career paths and help them build a reputation in the local legal community.⁹⁸ But despite these rewards, very few actually engage unless mandated by the curriculum.⁹⁹ Further, even when mandated, there is a very real fear that students are completing hours

students may appear to abandon these values during law school, it is more likely that they simply de-emphasize them.”).

94. See Rose, *supra* note 15, at 452; Snow, *supra* note 1, at 663 (quoting Chief Judge Lippman’s 2012 remarks to law students: “How will you choose to benefit your fellow man and your community with your new skills? Will you use your legal acumen to foster equal justice in our state? Do you recognize that being a lawyer requires an understanding that access to justice must be available to all New Yorkers regardless of their station in life? From the start, these responsibilities of the profession must be a part of every lawyer’s DNA—to support the values of justice, equality and the rule of law that make this state and this country great.”).

R

95. See Standing Comm. on Pro Bono and Pub. Serv., *supra* note 44 (noting that for “the law school setting, pro bono generally refers to student provision of voluntary, law-related services to people of limited means or to community-based nonprofit organizations, for which the student does not receive academic credit or pay”).

R

96. *Id.* Hopefully, such initiatives will change the bleak statistics of the past, in which “[o]nly about a quarter to a third of their students participate in law-related pro bono programs. Average time commitments are quite modest and some seem intended primarily as resume padding.” See Deborah L. Rhode, *The Pro Bono Responsibilities of Lawyers and Law Students*, 27 WM. MITCHELL L. REV. 1201, 1213 (2000).

97. See generally Standing Comm. on Pro Bono and Pub. Serv., *supra* note 44.

R

98. See *id.*

99. See Rose, *supra* note 15, at 452 (“Only a small fraction of all lawyers perform pro bono work. Many lawyers perceive that pro bono work will diminish their economic opportunities. These lawyers have lost touch with the element of professionalism that is unique—the commitment to public service.”).

R

out of obligation, rather than with a full understanding of their meaning and role.¹⁰⁰

II.

ABA STANDARDS AND THE ROLE IN POVERTY LAW

For decades, the goal of the U.S. legal academy has been to help students “think like lawyers.”¹⁰¹ This goal has merged components, including black letter law, legal writing, practice proficiency, and career-readiness.¹⁰² However, as noted above, law schools have shown less interest in inculcating community and social responsibilities.¹⁰³

This absence is potent against the background of American Bar Association (ABA) Standard 303(b), which requires law schools to provide substantial opportunities to students for: “(1) law clinics or field placement(s); and (2) student participation in pro bono legal services, including law-related public service activities.”¹⁰⁴ In explaining this standard, the ABA has referenced Model Rule 6.1, noting that

Rule 6.1 of the ABA Model Rules of Professional Conduct encourages lawyers to provide pro bono legal services primarily to persons of limited means or to organizations that serve such persons. In addition, lawyers are encouraged to provide pro bono law-related public service. In meeting the requirement of Standard 303(b)(2), law schools are encouraged to promote opportunities for law student pro bono service that incorporate the priorities established in Model Rule 6.1. In addition, law schools are encouraged to promote opportunities for law students to provide over their law school career at least 50

100. *See id.* (“One drawback of mandatory clinical work . . . is that the clinical work is generally awarded course credit and the donative aspect of such work is diminished.”).

101. Henry Dahut, *Learning to Think Like a Lawyer*, BALANCE CAREERS (Jan. 25, 2019), <https://www.thebalancecareers.com/careful-a-career-in-law-could-change-the-way-you-think-2164370> [<https://perma.cc/GSW4-TVAV>] (“Thinking like a lawyer demands thinking within the confines of inductive and deductive forms of reasoning.”).

102. *See id.* (“I soon saw how thinking like lawyers actually meant altering our reasoning structures.”).

103. *See, e.g.*, Wizner, *supra* note 61, at 583, 589.

104. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017, Standard 303 (AM. BAR ASS’N 2017).

hours of pro bono service that complies with Standard 303(b)(2).¹⁰⁵

As such, the ABA recognizes that a key part of legal education must be in promoting service.¹⁰⁶ Standard 303 recognizes the dearth of attorneys available to tackle legal issues for low-income persons and seeks to encourage the law school to serve as a change agent in providing these opportunities to students.¹⁰⁷ It is hoped that such a standard will provide increased attention to the role of pro bono in U.S. law schools.¹⁰⁸

If a law school were to integrate additional conversations about poverty, pro bono, and service into its first-year curriculum, this discourse would hopefully at least help to meet the vision advanced by ABA Standard 303.¹⁰⁹ Currently, Standard 303 is largely aspirational, as it requires law schools to provide access to pro bono activities and encourage students to participate.¹¹⁰ However, it does not formally require a pro bono requirement for graduation, nor does it tackle larger questions of culture surrounding service and social justice.¹¹¹ Indeed, one of the problems in this space is that there is a spectrum of what type of “substantial” pro bono offerings are required.¹¹² Some schools provide mandatory, faculty-led programs, while others have voluntary, student-led programs, creating a wide disparity in the quality and quantity of offerings.¹¹³

In addition to ABA Standard 303, ABA Standard 302 addresses the law schools’ responsibility to establish learning outcomes that

105. *Id.* at Interpretation 303-3; *see also* MODEL RULES OF PRO. CONDUCT r. 6.1 (AM. BAR ASS’N 2019).

106. *See* Model Rules of Pro. Conduct r. 6.1 (AM. BAR ASS’N 2019)

107. *See, e.g., Law Students Respond to Pro Bono Needs*, A.B.A. (Apr. 23, 2020), <https://www.americanbar.org/groups/center-pro-bono/publications/pro-bono-exchange/2020/law-students-respond-to-pro-bono-needs/> [<https://perma.cc/DEX4-P2SE>] (showing different law schools’ efforts of increasing pro bono).

108. *See id.*

109. *See* Brian Sites, *Experiential Learning: ABA Standards 303 and 304*, BEST PRACT. FOR LEGAL EDUC. (Sept. 13, 2015), <https://bestpracticeslegaled.com/2015/09/13/experiential-learning-aba-standards-303-and-304/> [<https://perma.cc/F94B-H3CU>] (“[T]he ABA’s new standards have brought it front and center by mandating that schools ‘require each student to satisfactorily complete at least . . . one of more experiential course(s) totaling at least six credit hours.’”). *See generally* ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2020-2021, Standard 303 (AM. BAR ASS’N 2020) [hereinafter ABA STANDARDS 2020-21].

110. ABA STANDARDS 2020-2021, Interpretation 303-3.

111. *See id.*

112. *Id.* at Standard 303(b).

113. *See* Snow, *supra* note 1, at 664 (discussing this problem and recommending that the ABA should measure the quality of law school pro bono offerings).

include professional legal skills in an effort to produce attorneys ready for practice.¹¹⁴ The interpretation of Standard 302 notes that the professional skills at issue may include “interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.”¹¹⁵ Further, law schools must develop “[k]nowledge and understanding of substantive and procedural law; [and l]egal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context.”¹¹⁶

The poverty law initiative used by St. Mary’s in its first-year curriculum showcases that many of these professional legal skills become foundational when poverty law is introduced into the curriculum. The representation of low-income persons requires a myriad of skills, from knowledge of areas of substantive law, to legal writing and research, communication and interviewing, counseling, problem-solving, and many others.

III. THE ST. MARY’S EXPERIENCE

St. Mary’s University School of Law is located in San Antonio, Texas, which has the highest percentage of people living in poverty among the top twenty-five most populous metropolitan areas.¹¹⁷ 18.6%, or 267,330 of 1.4 million residents, of the San Antonio-New Braunfels metropolitan area live below the poverty line.¹¹⁸ Poverty in the city is especially likely to impact minority demographic groups.¹¹⁹ For example, of 1.38 million Hispanic and Latino residents of San Antonio, 19.22% live below the poverty line.¹²⁰ Of the 64,511 Asian residents of San Antonio, 16.7% live below the poverty line, while 16.9% of African-American residents live below

114. ABA STANDARDS 2020-2021, Standard 302(c), (d).

115. SNOW, *supra* note 1, at 644 n.12.

116. ABA STANDARDS 2020-2021, Standard 302(a), (b).

117. Jackie Wang, *Census Data: San Antonio Region’s Poverty Rate Rises, Tops Nation*, SAN ANTONIO REP. (Sept. 26, 2019), <https://sanantonioreport.org/census-data-san-antonio-regions-poverty-rate-rises-tops-nation/> [<https://perma.cc/7FHU-PF6P>]. The poverty threshold for San Antonio for a family of four was \$25,701 in 2018.

118. *Poverty in San Antonio, Texas*, WELFARE INFO, <https://www.welfareinfo.org/poverty-rate/texas/san-antonio> [<https://perma.cc/R4GA-9VLY>] (last visited Oct. 8, 2020).

119. *See id.* (showing in a chart how poverty in San Antonio affects different minorities within the city).

120. Wang, *supra* note 117.

the poverty line.¹²¹ White non-Hispanics have the lowest poverty rate, with just above nine percent living below the poverty line.¹²²

In addition to people living in poverty, San Antonio has a significant population of individuals experiencing homelessness.¹²³ To measure homelessness within the city, a “Point in Time” count is conducted to record the number of people experiencing homelessness during a single night. According to the South Alamo Regional Alliance for the Homeless:

These one-night snapshot counts also provide local planners with data they need to understand the number and characteristics of persons who are homeless so they, in turn, can develop a thoughtful response. [This effort] allows communities to find out not just *how many* people are homeless, but *who* is homeless and more importantly, *why* they are homeless.¹²⁴

During the Point in Time Count conducted on January 24, 2019, researchers found that just under 3,000 people in Bexar County, the county that houses the city of San Antonio, were homeless.¹²⁵ This included approximately 500 children and 128 individuals aged eighteen to twenty-four.¹²⁶ Equally as concerning is the 521 adults over age fifty found to be homeless, a population that suffers from poor nutrition, limited health care, and stress.¹²⁷ Further, while the overall number of people living homeless decreased

121. *Id.*

122. *Id.*

123. See Melissa Fletcher Stoeltje, *Number of People Living on the Streets of San Antonio up Dramatically*, SAN ANTONIO EXPRESS-NEWS (May 7, 2018, 5:24 PM), <https://www.expressnews.com/news/local/article/Number-of-people-living-on-the-streets-of-San-12886184.php> [<https://perma.cc/4RNV-7H8U>] (the number of people experiencing homelessness “zoomed from 441 in 2017 to 705 on Jan. 25, 2018”).

124. S. ALAMO REG’L ALL. FOR THE HOMELESS, 2019 POINT IN TIME COUNT: SUMMARY REPORT 3 (2019) (emphasis added), https://www.sarahomeless.org/wp-content/uploads/2019/05/2019-PIT-Report_Digital-Copy.pdf [<https://perma.cc/PV2J-MSX9>]. The Point in Time Count is a national project that occurs during the last ten days in January. During this period, tens of thousands of volunteers gather across the country to help measure the scale of homelessness in over 3,000 cities and counties across the country. See *id.*

125. See *id.* at 6.

126. *Id.* at 12.

127. *Id.* at 17.

in San Antonio in 2019,¹²⁸ the number of homeless families increased by 18%.¹²⁹

As the city of San Antonio's only law school, St. Mary's University School of Law ("School of Law") is home to a diverse population of students from a range of socioeconomic, ethnic, and cultural backgrounds.¹³⁰ As a Catholic and Marianist University, the mission of the School of Law is to educate future leaders for the common good through community, with an emphasis on service. Against this background, the School of Law realized an opportunity to expose its law school student body to the issues of poverty and homelessness in the local San Antonio community during the first year of law school.¹³¹

128. These decreases are to be celebrated and are largely the result of progressive housing programs available in the San Antonio metropolitan area. First, there was an overall six percent reduction in homelessness in San Antonio. *See id.* at 7. This decrease was attributed by the South Alamo Regional Alliance for the Homeless as the result of outreach efforts and the City of San Antonio's Department of Human Services' initiative to reach homeless individuals living in encampments. *See id.* at 4. Additional good news came in the reduction of the number of veterans experiencing homelessness. San Antonio has a significant number of military bases and the city is home to approximately 250,000 veterans and 80,000 active-duty personnel. Megan Rodriguez, *With 80,000 Active-duty Personnel, Bexar County Ranks Highest in Number of Military Deaths*, SA CURRENT (June 7, 2018, 11:44 AM), <https://www.sacurrent.com/the-daily/archives/2018/06/07/with-80000-active-duty-personnel-bexar-county-ranks-highest-in-number-of-military-deaths> [<https://perma.cc/9JZ6-ZXTS>]. In 2019, it appeared that the number of San Antonio veterans experiencing homelessness decreased by six percent thanks to non-profit partners and a \$2.1 million gift from insurance company USAA. S. ALAMO REG'L ALL. FOR THE HOMELESS, *supra* note 124, at 4.

129. *See* S. ALAMO REG'L ALL. FOR THE HOMELESS, *supra* note 124, at 13.

130. *See* Maria Luisa Cesar, *St. Mary's Law School Named One of Most Diverse in U.S.*, MY SAN ANTONIO (Feb. 2, 2015, 5:40 PM), <https://www.mysanantonio.com/news/education/article/St-Mary-s-law-school-named-one-of-most-diverse-6057520.php> [<https://perma.cc/4CNE-ZZLP>] ("Of the student population at St. Mary's law school, 33.5 percent is Hispanic, 1.6 percent is American Indian; 3.1 percent is Asian or Hawaiian, and 3.6 percent is African-American.").

131. St. Mary's is lucky to have a robust clinical program, which assists students in gaining lawyering skills by acting as the attorney of record for low-income clients. The clinical program, housed as the Center for Legal and Social Justice, includes Civil and Criminal Justice Clinics and an Immigration and Human Rights Clinic. *See Clinical Program*, ST. MARY'S SCH. OF L., <https://law.stmarytx.edu/academics/special-programs/center-legal-social-justice/clinical-program/> [<https://perma.cc/UMW8-VQPZ>] (last visited Oct. 8, 2020). These clinical offerings provide a much-needed resource for low-income residents in South Texas seeking legal representation and are a core component of the School of Law's mission. *See* Hornstein, *supra* note 2, at 1072 ("[I]t should indeed be noted and celebrated that many law school clinics have done and continue to do enormously important social justice impact work, and many clinical programs provide invaluable individual

The goals behind this exposure are twofold. First, in exposing students to issues of poverty and homelessness in their first year of law school, students would hopefully build skills in cultural competency and professionalism outside the traditional curriculum that would carry into their future practice. Second, early exposure to issues in the community would hopefully whet the appetite for student engagement in pro bono, clinical programs, and greater community service in a way that would build a culture of service that could last into practice. An ancillary goal was to show the impact of faculty modeling—the idea that faculty-led discussions about social justice and poverty would provide positive messages and instill values into the first-year class.¹³²

With these goals in mind, the School of Law's Law Success Program developed an initiative to expose students in the first year of law school to community issues about poverty and homelessness, engage in simulations that required students to think about representing a low-income client, and hopefully build a culture of service and engagement that would last into practice. The initiative is designed to introduce students to diverse perspectives, particularly those identified as larger concerns in San Antonio, integrates opportunities to create awareness into skills work and further develop students into conscious lawyers. Further, this initiative would hopefully combat the view that poverty law issues were limited to specialized offerings and rather reinforce a message that social justice was a law school-wide concern.¹³³

representation both civilly and criminally.”). While an entirely separate article could be written about the innovative work of the School of Law's Clinical Program in addressing the needs of low-income persons, this Article focuses on an initiative to expose students to these issues in the first year of law school.

132. See Christine Cerniglia Brown, *The Integrated Curriculum of the Future: Eliminating A Hidden Curriculum to Unveil A New Era of Collaboration, Practical Training, and Interdisciplinary Learning*, 7 ELON L. REV. 167, 168 (2015) (“The role modeling of the professor is one of the most influential methods to communicate core values.”).

133. See Spencer Rand, *Social Justice as a Professional Duty: Effectively Meeting Law Student Demand for Social Justice by Teaching Social Justice as a Professional Competency*, 87 U. CIN. L. REV. 77, 96 (2018) (“Except for a few law schools that require all students to take some form of poverty law course, many law students have no out-group class requirements and will not take many (or any) social justice focused courses. Limiting teaching of social justice to clinical and out-group classes leaves many students with little to no social justice instruction . . .”). By placing social justice and poverty law issues into the first-year curriculum, all students necessarily receive at least some training and exposure to these concepts early in their law school journey.

A. *Housing the Experience*

In making first year law student exposure to poverty law a part of the curriculum, the first question to be addressed was where to house the initiative. It can often be unclear in a law school curriculum where to place significant initiatives like this one. For St. Mary's, because part of the goal was to focus on skill building, it seemed clear that there were two significant opportunities—first year orientation, and the first year Legal Communication, Analysis, and Professionalism class.¹³⁴ Each of these presented an opportunity to create a culture around community awareness and poverty law. Additionally, both had connections to the St. Mary's Law Success Program, the School of Law's data-driven legal skills and professionalism program.¹³⁵

The School of Law's First-Year Law Student Orientation ("First-Year Orientation") is the kickoff to any law student's academic experience. This two-day program accomplishes a number of important objectives to ready incoming first year (1L) students for their law classes. One of the most important goals of First-Year Academic Orientation is to introduce incoming 1L students to the basic skills

134. A rich body of scholarship exists exploring the placement of poverty law discussions within the first-year curriculum, including in doctrinal courses and specific poverty law courses. See Hornstein, *supra* note 2, at 1080 (discussing a poverty law seminar and the cases used; also, highlighting skills work done in the class, including asking students to conduct a voir dire examination—"a] poverty law course offers virtually unbounded opportunities to examine questions of justice and equality within the crucible of practical lawyering concerns"); Susan Carle & Michelle Lapointe, *Short Notes on Teaching About the Micro-Politics of Class, with Examples from Torts and Employment Law Casebooks*, 56 BUFF. L. REV. 1129, 1152 (2008) ("Law school courses in torts, employment law, and employment discrimination offer ample opportunities for discussing issues of socioeconomic class . . . discussion of these issues in examining casebook materials can prevent students from accepting as natural or inevitable instances in which law reinforces or expresses ideas that actors possessing lower socioeconomic status have lower value and fewer dignitary rights."); Loffredo, *supra* note 56, at 1239–40 ("The relevance of poverty, economic inequality, and class to a constitutional law course dealing with individual rights ought to be readily apparent.")

135. *Support for Law Success*, ST. MARY'S SCH. OF L., <https://law.stmarytx.edu/academics/special-programs/support-for-law-success/> [https://perma.cc/7MC5-382S] (last visited Oct. 12, 2020) (describing the Law Success program, which "takes an innovative, data-driven approach to student growth by using assessments and data-gathering to plan legal skills development, bar exam initiatives, and individual academic counseling. The data also forms the foundation of [a] rigorous legal skills curriculum, including [a] first-year writing and lawyering class, [a] second-year experiential writing course, and [a] third-year bar preparation for credit course, and involves significant writing development, practice readiness simulations, and individual student skill building.")

R

R

necessary to begin the study of law. Faculty guide students through exercises that ramp up in difficulty to ensure all students matriculate with a basic understanding of how to read legal materials and prepare for their classes. These exercises culminate in reading and briefing a case for a mock class that exposes all incoming 1L students to the basics of the Socratic method and case recitation. Finally, students work through a series of small group interactive exercises that create the foundations of legal analysis.

The Office of Law Success collects data and feedback on First-Year Orientation, and the data available to date shows that the incoming 1L class in 2017 greatly appreciated Orientation and its focus on skills preparation. The below chart shows how incoming students rated various components of the orientation experience:

Percentage of Incoming Class Responses Rating the Session as Helpful

Reading Legal Cases and Materials: 93.3%

Briefing a Legal Case: 89%

Mock Class: 97.1%

Crafting Legal Arguments: 94.7%

Because of its significant past success, and because it serves as the first moment that culture and mission are established at the law school, the First-Year Orientation seemed like an ideal place to begin discussions about community engagement and poverty in San Antonio.

Following Orientation, first-year students begin their required first semester curriculum. As part of this curriculum, students take three hours of Legal Communication, Analysis, and Professionalism (“LCAP”), a two-semester course that builds skills in the foundational areas of case analysis, legal research, legal writing, and professionalism. The purpose of LCAP is holistic. While it covers the traditional writing and research curriculum, it develops the “whole attorney” by focusing on simulated practice experiences, cultural competency, oral communication, and advocacy.

LCAP, which is taught in small sections of fifteen to eighteen students, seemed like an ideal place to create a culture of service.¹³⁶

136. Excellent scholarship has been written on using the first-year skills and writing courses to stimulate pro bono and service. For some examples, see, e.g., Mary Nicol Bowman, *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, 62 J. LEGAL EDUC. 586 (2013); Rebecca A. Cochran, *Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service*, 8 B.U. PUB. INT. L.J. 429 (1999); see also Sara K. Rankin et al., *We Have a Dream: Integrating Skills Courses*

Additionally, LCAP houses several major skills capstones that could be used to expose students to the issue of poverty law. In the fall semester, students are required to interview a client in a simulated client meeting, and then write a final memo for the semester using the facts discovered in the client interview and law that the students had been researching for several weeks. The client interview is a cross-departmental success—St. Mary’s drama students play the part of the client, while 1L students play the role of the attorney during the simulation. In the classes leading up to the simulation, LCAP instructors cover topics relating to oral communication, cultural competency, empathy, implicit bias, and questioning techniques. The client interview simulation goes well beyond a traditional legal writing curriculum by requiring students to practice critical thinking and analytical skills, while also honing skills such as communication, professionalism, and cultural awareness.

In the spring semester, LCAP provides an additional two capstone experiences. First, students participate in a senior partner meeting with members of the San Antonio legal community. As part of a simulated practice experience, students do legal research and analysis and report their findings to a member of the bar, who plays the student’s supervising attorney on the case for purposes of the simulation. Like the client meeting in the fall, the senior partner meeting develops communication skills and professionalism. It is also an opportunity for students to practice intra-office meetings, cultural competency, notetaking, and professional interactions. Following the senior partner meeting, students end the semester with an appellate brief that requires their own independent legal research. After the brief is submitted, students then engage in mock oral argument to simulate the courtroom and advocacy experience.

In addition to the major capstone experiences, LCAP also utilizes a universal problem that has students follow a single client

and Public Interest Work in the First Year of Law School, 17 CHAP. L. REV. 89 (2013). Many other schools have found the legal research and writing course to be an effective place to house social justice discussions. For example, Professor Bowman wrote in *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, “LRW classes provide a valuable opportunity for schools to engage law students with the practice of law, and more particularly with the practice of public interest law. The Carnegie Report noted that ‘[t]he teaching of legal writing can be used to open a window for students onto the full complexity of legal expertise.’ LRW classes can more specifically introduce students to social justice practice, which can help students begin to realize the importance of legal writing and research to practitioners by being exposed to some of the types of writing attorneys engage in on behalf of their clients.” Bowman, *supra* at 588 (some internal quotations omitted).

through multiple drafting exercises, including a client letter, multiple memos, and an appellate brief. The capstone experiences also use the same client and topic as the drafting exercises, creating a multi-faceted experience that has students follow the same case while their drafting and communication tasks grow in complexity. Because of this progression, LCAP presented a unique opportunity to attack issues of homelessness and poverty across a variety of practice simulations.

B. Poverty Law Exposure in the First Year

With Orientation and LCAP serving as the vessels for student exposure to poverty law in the first year, the next step was to design what experiences, information, and skills would be included in this experiment.¹³⁷ As discussed, the major goals of the initiative were to raise student awareness about poverty in San Antonio, increase sensitivity around socioeconomic issues, and train students to use their developing lawyering skills to make a difference for the underserved. Much of this work would be accomplished through various simulation exercises embedded in the first-year skills curriculum, with the idea that simulation problems would allow students to improve their skills in legal analysis, issue spotting, and writing, while also highlighting equally important skills like cultural competency, oral communication, professional interactions, and commitment to social change.¹³⁸

The first major experience provided to students was a Pre-1L recommended reading. Students read *Evicted* by Matthew Desmond, a Pulitzer Prize winning book that explores the issues of homelessness in U.S. cities and the pipeline to homelessness.¹³⁹ The book richly describes the experience of living as a low-income American facing homelessness.¹⁴⁰ Desmond, a Harvard academic, wrote the book while living in a trailer park and other low-income

137. In addition to the Law Success Program's role in building out this initiative, the Office of Admissions was a critical partner in making this a reality. As discussed above, early introduction was a critical part of the goal, and Admissions' participation in bringing some of these experiences into first-year orientation was critical.

138. See Snow, *supra* note 1, at 698 (highlighting the benefits of using a poverty law simulation as part of a course, including the opportunities to "give meaning to the law, heighten students' motivation, deepen learning, build students' professional identity, and strengthen, instead of wilting, students' commitment to social justice").

139. MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2016).

140. See *id.*

housing in Milwaukee, and the book details the stories of those living in poverty and on the verge of homelessness.¹⁴¹ As part of the book, Desmond explores various personal stories, but he also touches on the root causes of poverty and homelessness, including the cycle of poverty, education, race, incarceration, and mental health.¹⁴² Further, it relates poverty and homelessness to the importance of civil legal representation, reporting that low-income persons facing eviction almost always fared better when they had legal representation.¹⁴³ In eviction proceedings described in the book, attorneys often appear for the landlords and rarely appear for the tenants.¹⁴⁴ As one commentator noted:

Desmond tentatively introduces the concept of “exploitation” — “a word that has been scrubbed out of the poverty debate.” The landlord who evicts Lamar, Lorraine and so many others is rich enough to vacation in the Caribbean while her tenants shiver in Milwaukee. The owner of the trailer park takes in over \$400,000 a year. These incomes are made possible by the extreme poverty of the tenants, who are afraid to complain and lack any form of legal representation.¹⁴⁵

The purpose of reading *Evicted* was to expose students, from a sociological perspective, to issues of poverty, and to generate their initial impressions of how lawyers could play a role in these situations. To further capitalize on this reading, students participated in small group meetings in the days prior to orientation to discuss the book, its content, their views on homelessness and poverty, and the role of lawyers in social justice.

141. See Jake Blumgart, *Why More Americans Are Getting Evicted*, SLATE (Mar. 17, 2016, 11:44 AM), <https://slate.com/business/2016/03/an-interview-with-matthew-desmond-on-evicted-his-book-about-the-eviction-crisis-in-america.html> [https://perma.cc/VE8X-BCNF] (“Desmond follows a moving crew as it works its way through the black neighborhoods of the North Side, the Latino communities of the near South Side, and that trailer park at the bottom of the city, where it kicks out one of Desmond’s central characters out of her home.”).

142. See *id.*

143. See *id.*

144. The phenomenon described in *Evicted* is very real and has been explored in the academic literature as well. See Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants’ Voices in Legal Process*, 20 HOFSTRA L. REV. 533, 554 (1992) (finding for Baltimore’s housing court that unrepresented tenants lost virtually every case to represented landlords).

145. Barbara Ehrenreich, *Matthew Desmond’s ‘Evicted: Poverty and Profit in the American City’*, N.Y. TIMES (Feb. 26, 2016), <https://www.nytimes.com/2016/02/28/books/review/matthew-desmonds-evicted-poverty-and-profit-in-the-american-city.html> [https://perma.cc/B265-UJE8].

The *Evicted* small group discussions were the students' first substantive interaction with their academic law school experience, and their first chance to meet each other in the classroom setting. To make this experience positive, and provide some ground rules for discussing sensitive topics, each small group came up with a list of rules that would apply during the discussion. Students led the creation of the rules, suggesting items for inclusion on a list kept by the faculty group leader. The group-created rules largely centered around respect: for example, "don't assume where another person is coming from," "ask for clarification instead of making assumptions," "keep an open mind," and "listen carefully." Student participants came to the discussion from various backgrounds and experiences and were thoughtful and respectful. Faculty led the sessions with discussion questions, which included the following:

- What brought you to law school? What type of lawyer do you hope to become?
- What impact do you think lawyers could have in situations like those captured in this book? How might a lawyer change the outcome in some of these situations?
- What does the phrase "meet them where they are" mean to you? Do you think the education level and experiences of a client impacts how they interact with you?
- If you had very different life experiences than a client, how would you educate yourself so that you could adequately help the client? Do you think it is necessary to educate yourself?

Reflections on these questions were the first opportunities to discuss issues of cultural competence, and the lawyer's role in social justice. In addition to the pre-Orientation *Evicted* discussions, the First-Year Orientation had a number of other tie-ins to the book and the overall poverty law initiative. First, students attended a presentation about the legal services needs in San Antonio and the pro bono opportunities that they would have in law school to help meet this community need. Additionally, as the last portion of First-Year Orientation, students participated in a class-wide service project at a local charity that supported San Antonio's homeless population. The service project provided an opportunity for students to engage with the issues they read about in *Evicted* head on, and to spend time with each other before classes began.

Following First-Year Orientation, the next major portion of the poverty law initiative appeared in the LCAP course.¹⁴⁶ With the sociological and community factors surrounding poverty and homelessness introduced before classes began, LCAP then took over as the primary vehicle for discussions as students began working through a universal problem that involved a low-income client. In selecting the LCAP universal problem, faculty chose a scenario that lent itself to opportunities to introduce diverse perspectives. As such, the heart of the problem is the representation of the client, Mr. Strong—an Afghanistan War veteran who lost his job in 2016. Unable to find work, Mr. Strong was evicted from his home and had to turn to panhandling to survive. The ultimate legal issues in the universal problem are constitutional in nature; specifically, whether the city's aggressive panhandling statute ordinance violates the First Amendment, and whether a search of the client's tent and possessions in the local park violated the Fourth Amendment.

From this set of facts, a number of assignments grew to help students understand what it is like to represent a client experiencing homelessness. For example, in a written memo assignment, the student is placed into a pro bono organization that provides legal assistance to veterans and is helping Mr. Strong obtain unemployment benefits. In another memo, the student is an intern with the District Attorney's office and is crafting a memo regarding whether Mr. Strong can suppress the police search that occurred of his possessions.

Perhaps the most important simulation exercise of the LCAP experience comes from the combination of the client interview and final memo. For the final components of the fall semester, the students work for the public defender's office, which is representing Mr. Strong. The students are tasked with conducting a client meeting with Mr. Strong, who is played by actors composed of upper-level law students and students from the undergraduate drama department at St. Mary's. The drama department prepares the actors from a script to realistically represent the client, while the LCAP faculty train the first-year law students for the interview from both the legal and human perspectives.

146. The Law Success instructors, the faculty who lead the LCAP course, are also the assigned academic advisors for the first-year students. As such, in their one-on-one discussions with students they are able to reinforce the integration of skills and experiences that are described here, and they are able to connect students to resources to further their awareness and experiences. Finally, they can empower students to evaluate their perspective while discussing skills development. As such, they have been a huge partner in this project.

To prepare students for the experience of interacting with the client, the LCAP course uses an awareness-based training, which deals with helping people understand their prejudices and cultural assumptions about others. This facet is extremely important in the poverty law context. Clinicians and other faculty members who work with students in a pro bono or legal services context have reported that students often approach lower-income clients with a belief that such persons are wholly responsible for their situations and may not be worthy of representation.¹⁴⁷ For example, Professor Michelle Jacobs noted with regards to many of her students who represented low-income clients in clinical programs:

I was sometimes disturbed by comments . . . Their voices would often be tinged with disrespect and, frankly, disgust towards their clients . . . [D]uring my tenure as a clinical professor I learned that many of the students believed their clients should be grateful for the students' willingness to take on their cases. On many levels, the students believed that the clients were not even worthy of having the students represent them.¹⁴⁸

Such beliefs can be combated through awareness-based training,¹⁴⁹ which asks students to reveal their own internal prejudices and assumptions.¹⁵⁰ Such training, which is more unusual in the law school context,¹⁵¹ includes discussions about unconscious bias and communication skills.¹⁵² There is an increasing recognition

147. See Michelle S. Jacobs, *Full Legal Representation for the Poor: The Clash Between Lawyer Values and Client Worthiness*, 44 *How. L.J.* 257, 258–59 (2001).

148. *Id.*; see also Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 *CLINICAL L. REV.* 37, 53 (1995) (“Most law students come to the course without significant exposure to the victims of injustice and almost none come to the course with experience representing a person trying to wring a just result from an often unresponsive legal system.”).

149. See Anthony V. Alfieri, *(Un)covering Identity in Civil Rights and Poverty Law*, 121 *HARV. L. REV.* 805, 837 (2008) (noting that failing to train attorneys in cross-cultural competency, particularly in a way that challenges that attorneys’ neutrality, “perpetuates stigma-induced marginalization in law and society”).

150. See *id.* (“Cross-cultural training in lawyering is necessary because of the failure of client-centered clinical pedagogy to address lawyer-client cultural differences, an omission that impairs the representation of clients of color and clients in low-income communities.”).

151. See Casey Schutte, *Mandating Cultural Competence Training for Dependency Attorneys*, 52 *FAM. CT. REV.* 564, 569 (2014) (“The legal profession is also behind other fields, particularly medicine, in emphasizing the importance of cultural competence as a core component of effective practice.”).

152. Communication skills are an important component of cultural competency. “[W]e are often unaware of the actual causes (and unintentional consequences) of our own behavior, thinking, emotions, and perceptions. We are not

that this skill is a necessary one for a successful attorney.¹⁵³ For example, the California State Bar lists cultural competency as one of the nineteen competencies for an attorney.¹⁵⁴

In sum, the St. Mary's initiative is largely based around a few key aspects. First, the initiative would not be complete without actual student exposure to the low-income person or persons experiencing homelessness. Early contact with these individuals through the Orientation Community Service Project helps to set the stage for later sensitivity and cultural training, and to ensure that the people referenced in the universal problem have real faces and stories. Other law schools have reported that such out-of-classroom exposure to real-world individuals is key to making a poverty law discussion purposeful in the law school classroom-context.¹⁵⁵

Additionally, scholarship confirms that poverty law exposure is best early in the curriculum and in a mandatory course that reaches all students. Such placement, in a manner that reaches all students, reinforces that social justice and community concerns are a key part of lawyering, and that these are not elective-type experiences, but rather impact all future professionals as the “real business of lawyers.”¹⁵⁶

Further, because a major goal of the initiative at St. Mary's was to change views about the importance of service, placing discussions about social justice early creates an opportunity to change the way students think about the law. When discussions about policy,

sufficiently self-aware to realize how many of our patterns of acting and thinking are ingrained [or] unconscious. . .” Joshua D. Rosenberg, *Interpersonal Dynamics: Helping Lawyers Learn the Skills, and the Importance, or Human Relationships in the Practice of Law*, 58 U. MIAMI L. REV. 1225, 1241 (2004) (discussing the importance of training for communication skills in the law school environment). *See also* Debra Chopp, *Addressing Cultural Bias in the Legal Profession*, 41 N.Y.U. REV. L. & SOC. CHANGE 367, 398 (2017) (“It is important to note here that, in light of the many factors that shape culture—such as socioeconomic status, level of education, and race—even people who were born in the same country and speak the same language can come from vastly different cultures and can have trouble understanding one another.”).

153. *See* Chopp, *supra* note 152.

154. *Id.* at 386, 394–95 (linking cultural competency and communication skills to attorneys' obligations under the Model Rules of Professional Conduct: “[A]dvancing a person's best interests requires understanding those interests; and interests are inextricably linked to culture, values, and identity.”).

155. *See* Erlanger & Lessard, *supra* note 79, at 210–11. (“Personal contact with the lives of low-income persons has proved effective in sensitizing students to poverty issues. . . . These experiences were probably successful because they occurred outside of the classroom.”).

156. *Id.* (examining three courses with facets of poverty law and social justice that were presented in either the first year or early in the legal curriculum).

community, and social impact are initiated early, students may see the law as more dynamic and social over the course of their entire law school journey.¹⁵⁷ Additionally, the use of social justice in a first-year skills class changes the way students view what is important in the profession. As discussed by Professor Christine Cerniglia Brown:

The message sent to first-year students is one that emphasizes lawyering as a process of reading, writing, and analyzing. All of these are traits are [sic] imperative to lawyering. However, they are cast to the front of the stage as lone star qualities[.] If interpersonal skills are equal, why not integrate them into a course to assess such skills?¹⁵⁸

Using poverty law as a basis for skills development forces the growth of these additional skills necessary to lawyering. Cultural competency, oral communication, and empathy are necessary requirements for a successful attorney.¹⁵⁹ Indeed, the practice of law is ultimately about dialogue with other people—clients, attorneys, and judges—who have different experiences, backgrounds, and motivations.¹⁶⁰ Teaching students to engage these professional skills¹⁶¹ is just as critical as teaching them legal citation.¹⁶²

While the goals of the St. Mary's initiative may not be realized or proven immediately, we hope that the simulations, skills, and faculty discussions on social justice over the first year of law school will impact students' views of poverty and community long-term. Students who have these experiences may be better equipped to talk about the law as a social force, and to continue their desire to use it as a force for reform and the greater good. "It is likely that students exposed to new ideas about the law, particularly if they are disturbed by the ideas, will continue to reflect on them over time, and their future experience will be affected."¹⁶³

157. *See id.* (extolling the virtues of early exposure to poverty law and noting that "[s]tudents just beginning their training are most open to new perspectives").

158. Brown, *supra* note 132, at 169.

159. *See* Serena Patel, *Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World*, 62 UCLA L. REV. DISC. 140, 143 (2014).

160. *See id.*

161. Indeed, a more sophisticated experience than the one proposed here could teach additional core competencies for early-career attorneys. Brown, *supra* note 132, at 170 ("The ability to handle stress, build a social network, and operate as a team player rank high on the scale of important values . . . strong work and team relationships [and] good judgment/common sense/problem solving.") (internal quotations omitted).

162. *See id.*

163. Erlanger & Lessard, *supra* note 79, at 211.

CONCLUSION

The law school curriculum represents a rich resource for discussions about justice, social change, and community awareness—and there are more opportunities than ever before for an institution to engage these discussions across the curriculum.¹⁶⁴ Of course, these opportunities compete with other priorities, including preparing students for practice, focusing on a bar exam friendly-curriculum, and budget concerns.¹⁶⁵ However, a unique opportunity exists to merge the existing curriculum with discussion about social justice, homelessness, and poverty.

The benefits of this approach are many. In addition to being efficient with limited credit hours and student time, the approach transforms the law school classroom in a more holistic way. In the *Journal of Legal Education*, authors Howard Erlanger and Gabrielle Lessard expounded the benefits of incorporating poverty law into classroom teaching:

[These professors] seek to do more than provide substantive legal knowledge: they focus on transforming the students' consciousness by sensitizing them to poverty and engaging them in critical thinking about the premises that underlie their perspectives and those of the law. These efforts extend the boundaries of the law school class by incorporating theoretical and nonlegal concepts and readings, and by teaching perspectives as well as rules.¹⁶⁶

Incorporating poverty law and social justice into the curriculum answers other questions as well:

What should law students be taught about the relationship between income and wealth distribution, and their professional responsibility as members of the legal profession to those unable to pay for legal services? Have legal educators been sufficiently explicit about the duty of lawyers to provide and

164. See Hornstein, *supra* note 2, at 1082–83 (noting that a goal of teaching around issues of poverty law and social justice is to “ensure that more students take what has traditionally been the road less travelled, and to ensure that all law students understand the direct and immediate relationship between poverty and injustice, including how both burden democracy”); see also Davis, *supra* note 56, at 1415 (“More than forty years after lawyers first began their aggressive efforts to address economic inequality through law, poverty persists. Four decades of poverty law courses and poverty lawyers have not succeeded in eradicating it.”).

165. See Erlanger & Lessard, *supra* note 79, at 202 (noting that “[a]t best, law schools may see appeals for more attention to social problems as one of many competing demands”).

166. *Id.* at 203.

R

R

support free or low-cost legal services for those who cannot afford to pay for them.¹⁶⁷

Against this backdrop, “rather than being consigned to the margins of the law school curriculum, however, poverty law and social justice should be prominent fixtures in legal education.”¹⁶⁸ This Article explores one school’s attempt to do just that. By combining a pre-law school activity, orientation programming, and integration within the first-year writing and skills class, St. Mary’s University has created a developed opportunity for using discussions about social justice in the first-year curriculum. Hopefully, this case study will inspire others to do the same.¹⁶⁹

167. Wizner, *supra* note 61, at 583–84.

168. Hornstein, *supra* note 2, at 1060.

169. Along with my colleague Professor Afton Cavanaugh, I had the privilege of presenting St. Mary’s work at the 2019 Bi-Annual American Association of Academic Support Educator’s Diversity Conference. In that session, we urged participants to think about the following questions in setting up their own plan for bringing social justice into the classroom:

What is the biggest concern surrounding socioeconomic status or diversity in your community?

What views do students have about socioeconomic status or diversity as it relates to lawyers, their clients, and their community?

What assignments could be designed to incorporate that concern as a vehicle for implementing diversity training?

How might the implementation or use of those assignments look different for one-on-one use vs. in classroom use?

What other methods might you use to engage students in this training?