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Law Student Field Projects in Community Law

Fran Ansley

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Teaching and Learning Portfolio



Law Student Field Projects in Community Law

THE PERMANENT COLLECTION

comprehensive portfolios from the archives

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This website is an exhibition of student work. It features selected projects in which my law students at the University of Tennessee have collaborated with people in under-represented communities. Many projects have centered on research and innovative education for lay people about some aspect of law or the legal system. In other projects, law students have helped to frame and make justice claims—sometimes focused on relief for individuals, more often seeking a change in social policy.

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Welcome

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This website is an exhibition of student work. It features selected projects in which law students in some of my courses at the University of Tennessee have collaborated with people in under-represented communities – at times to explore some dimension of law and the legal system through research or education, and at other times to participate in mounting justice claims that sought to win individual relief or systemic change.

Since 1996 I have been experimenting with community-based field work as a tool for teaching and learning in law school. Although the missteps and frustrations have been many, the rewards have also been heartening and real. This page aims to do three main things:

- to celebrate and honor some particularly vivid or instructive examples of work that my students and their community partners have carried out,
- to provide ideas, cautions, and inspiration for future law students and their collaborators who are trying to design and achieve law-related community projects of their own, and
- to share all this with other teachers, both in law schools and elsewhere, who are interested in using similar approaches in their teaching, research or service.

Beyond the examples described above, which are featured in the Permanent Collection, the site also contains a Temporary Exhibit Space for less elaborated exhibits, where students enrolled in my field work courses in the future will sometimes be invited to mount reports, images, and artifacts related to their community projects.

Please enjoy your visit. Your comments about the content or design of the site are most welcome.

Acknowledgments: Many people and organizations provided crucial support to the projects that appear on this site, and visitors who venture further into it will hear about many of them. Here on the opening page, however, I want to acknowledge some key sources of inspiration and material support for the website itself. Cathy Cochran, Computer Services Librarian and Assistant Professor in the UT Law Library, and Spring Miller, my research assistant in Summer 2004, have both been important partners on this endeavor. Cathy has been involved in virtually every stage of this site's development, and she will contribute a scholarly bibliography to the permanent exhibit on spousal rape. Spring contributed in myriad ways, both technical and substantive, to the permanent exhibit on Tennessee immigrants and Criminal Justice. In 2000-2001, the Carnegie Academy for the Scholarship of Teaching and Learning gave me a privileged year as part of an interdisciplinary cohort of fellows, regularly urging upon us a range of exciting and sophisticated examples of ways to use the web, both in our teaching and in our scholarship about our teaching. In spring 2002, the Innovative Technology Center at the University of Tennessee in Knoxville awarded me a Faculty First grant that provided indispensable technical and design support. Joan Thomas at the ITC is the talented designer who gave the site its "look" and translated my initial ideas into a functioning structure. The ITC's Kathy Bennett also provided excellent advice about how web users tend to behave, and what they typically need and want. Meanwhile the University of Tennessee College of Law has stood solidly behind the effort all along the way, in more ways than can be recounted here.

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Resources



This is a modest list. For instance, the resources listed here are only an opening into a much larger literature, the entries are not annotated (though I hope they may be in the future), and the division into which I have sorted them is in many ways unsatisfactory. Despite these flaws, I hope the list will provide a helpful starting point for those interested in pursuing in more depth some of the themes raised in other portions of the Teacher's Overview.

The list leans somewhat toward legal and law-related sources, but materials of various kinds from other fields also appear. My citation style is a thoroughly hybrid invention strongly influenced by legal citation practice, but designed to be accessible to readers outside the legal academy and to provide the information they will expect, although not always in the sequence or format to which they are accustomed. For citations to periodical articles, the number that precedes the name of the periodical indicates the volume, while the number that follows the name of the periodical indicates the page on which the article begins.

I. The Scholarship of Teaching and Learning

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Robert Bain, "Into the Breach: Using Research and Theory to Shape History Instruction," in *Knowing, Teaching and Learning History*, Stearn et al eds., New York: NYU Press, pp. 331-3352 (2000).

Mary Belenky, et al, *Women's Ways of Knowing: The Development of Self, Voice, and Mind* (1986)(New York: Basic Books)

Gary Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 *Journal of Legal Education* 313

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Stephen Brookfield, *Becoming a Critically Reflective Teacher* (1995)

Jerome Bruner, *The Process of Education* (1960)

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Marc Chesler and A. Malani, *Perceptions of Faculty Behavior by Students of Color*, 16 *Michigan Journal of Political Science* 5479 (1993)

Lane Cooper, "Louis Agassiz as a Teacher," in *Teaching with Cases: Texts, Cases, Readings*, Louis Barnes, C. Roland Christensen, and Abbey J. Hansen, Eds. v.3, Boston: Harvard Business School Press (1994)

Roberto L. Corrada, *A Simulation of Union Organizing in a Labor Law Class*, 46 *Jounral of Legal Education*, no. 3 (1996), pp. 445-455

Roberto L. Corrada, *On Teaching Goals, Education Theory, and the Law School Classroom*, http://www.law.du.edu/corrada/castl/on_teaching_goals.htm

K. Patricia Cross and Mimi Steadman, *Classroom Research: Implementing the Scholarship of Teaching* (1996).

John Dewey, *Experience and Education* (1938)

Daisy Hurst Floyd, *Reclaiming Purpose - Our Students' and Our Own*, *The Law Teacher*, Spring 2003, pp. 1-2.

Howard Gardner, *The Unschooled Mind: How Children Think, How Schools Should Teach*

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Marcia Baxter Magolda, Knowing and Reasoning in College: Gender-related Patterns of Intellectual Development (1992)(San Francisco: Jossey-Bass)

Frances Maher and Mary Kay Thompson Tetreault, The Feminist Classroom (1994).

Craig Nelson, "On the Persistence of Unicorns: The Trade-Off between Content and Critical Thinking Revisited," in The Social Worlds of Higher Education, Bernice Pescosolido and Ronald Aminzade, Eds. (1999) (Pine Forge Press)

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Mike Rose, Lives On The Boundary: A Moving Account of the Struggles and Achievements of America's Underclass (1989)
Schon, Donald, The Reflective Practitioner: How Professionals Think in Action (1984)

Gerald E. Schenk and David Takacs, History and Civic Participation: An Example of the Scholarship of Teaching and Learning, Perspectives (April 2002)
<<http://www.historians.org/Perspectives/Issues/2002/0204/0204teach2.htm>>

Gerald Shenk and David Takacs, Using History to Inform Political Participation in a California History Course, 84 Radical History (Fall 2002)

Mina Shaughnessy, Errors and Expectations (1977)(Oxford University Press)

Lee Shulman, From Minsk to Pinsk: Why a Scholarship of Teaching and Learning? 1 Journal of Scholarship of Teaching and Learning 1 (2000)

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Claude Steele, "Thin Ice: 'Stereotype Threat' and Black College Students."
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<www.theatlantic.com/issues/99aug/9908stereotype.htm>

P. Treisman, Studying Students Studying Calculus: A Look at the Lives of Minority Mathematics Students in College, 23 College Mathematics J. 362372. (1992)

Emily van Zee and Deborah Roberts, Using Pedagogical Inquiries as a Basis for Learning to Teach: Prospective Teachers' Reflections upon Positive Science Learning Experiences, Science Teacher Education (2001)

B.E.F. Walvoord & V. J. Anderson, Effective Grading: A Tool for Learning and Assessment (1998) (San Francisco: Jossey-Bass)

Paul Wangerin, Teaching and Learning in Law School: An "Alternative" Bookshelf for Law School Teachers, Gonzaga Law Review, Special Edition (1994), pp.49-59.

Grant Wiggins and J. JcTighe, Understanding by Design (1998).

B. Organizations, projects, websites related to the scholarship of teaching and learning

American Association for Higher Education <www.aahe.org/>

Association of American Law Schools <www.aals.org>

Center for new Designs in Learning and Scholarship (CANDLS) < <http://www.georgetown.edu/main/provost/candles> >

Carnegie Foundation for the Advancement of Teaching <www.carnegiefoundation.org>

Knowledge Media Lab <www.carnegiefoundation.org/KML/>

KEEP Toolkit <www.carnegiefoundation.org/KML/KEEP>

Carnegie Foundation Study of Legal Education <www.carnegiefoundation.org/PPP/legalstudy/index.htm>

Center for Computer Assisted Legal Instruction (CALI) <www.cali.org>

Indiana University course portfolio web page <www.indiana.edu/~deanfac/portfolio>

Institute for Law School Teaching <<http://law.gonzaga.edu/ilst/ilst.htm>>

Institute for Learning Technologies <www.ilt.columbia.edu/about/index.html>

Craig Nelson's Bibliography <<http://mypage.iu.edu/~nelson1/TCHNGBKS.html>>

Peer Review of Teaching Course Portfolio Initiative <www.unl.edu~peerrev/>

Portfolio Projects at AAHE <www.aahe.org/teaching/portfolio_projects.htm>

Scholarship of Teaching and Learning at Indiana University <www.indiana.edu/~sotl/>

Society of American Law Teachers (teaching conferences) <www.saltlaw.org>

Teaching and Learning Law: Resources for Legal Education
<<http://www.law.umkc.edu/faculty/profiles/glesnerfines/bgf-edu.htm>>

The Visible Knowledge Project <www.georgetown.edu/crossroads/vkp/index.htm>

Teaching Initiatives Project <<http://www.aahe.org/initiatives/ti.htm>>

C. Periodicals related to the scholarship of teaching and learning

Issues in Teaching and Learning <www.ric.edu/itl/>

Journal of Legal Education. (Assn of American Law Schools) <<http://heinonline.org/HOL/Index?index=journals/jled&collection=journals>>

Journal of the Scholarship of Teaching and Learning <<http://titans.iusb.edu/josotl/>>

The Law Teacher <<http://law.gonzaga.edu/ilst/ilst.htm>>

National Teaching & Learning Forum <www.ntlf.com>

II. Service Learning, Community Partnerships, Social Justice

A. Publications on service learning, community partnerships, social justice

Jane Harris Aiken, Striving to Teach “Justice, Fairness and Morality,” 4 Clinical Law Review 1 (1997)

Fran Ansley and John Gaventa, “Researching for Democracy and Democratizing Research,” 29 Change Magazine (Number 2) (1997), pp. 46-53.

Association of American Law Schools Commission on Pro Bono and Public Service Opportunities, Learning to Serve (1999) (Washington, DC: AALS)

Stephen Before and Eric Janus, The Role of Legal Education in Instilling an Ethos of Public Service among Law Students: Towards a Collaboration between the Profession and the Academy on Professional Values, 13 Law & Inequality Journal 1 (1994).

Barbara Bezdek, Reconstructing a Pedagogy of Responsibility, 43 Hastings Law.Journal 1159 (1992).

Barbara Bezdek, Reflections on the Practice of a Theory: Law, Teaching, and Social Change 23 Loyola Los Angeles Law Review 707 (1999)

Harry Boyte and Nancy Kari, Building America: The Democratic Promise of Public Work (1996)(Philadelphia: Temple University Press)

Campus Compact, Introductory Service-Learning Toolkit: Readings and Resources for Faculty (2000)

_____, Service Matters 1999: The Engaged Campus (1999)

_____, Establishing and Sustaining an Office of Community Service (2000)

_____, Benchmarks for Campus/Community Partnerships (2000)

Anne Colby, Thomas Ehrlich, Elizabeth Beaumont, and Jason Stephens, Educating Citizens: Preparing America's Undergraduates for Lives of Moral and Civic Responsibility, San Francisco: Jossey-Bass (2003)

Jon C. Dubin, Clinical Design for Social Justice Imperatives, 51 Southern Methodist University Law Review 1461 (1998)

Thomas Ehrlich, Civic Responsibility and Higher Education (2000)(Phoenix: Oryx Press)

Sandra Enos, Student Learning on American Campuses: Challenges for Pedagogy and Practice, Issues in Teaching and Learning (no.2) www.ric.edu/itl/issueoz/printEnos.html

Frank Fear and Lorilee Sandmann, Unpacking the Service Category: Reconceptualizing University Outreach for the 21st Century, 59 Continuing Higher Education Review 110-122 (1995).

Dwight Giles, Ellen Porter Honnet, and Sally Migliori. Research Agenda for Combining Service and Learning in the 1990s, Raleigh, NC: National Society for Internships and Experiential Education (1991)

Elizabeth Hollander and John Saltmarsh, The Engaged University, Academe, July-August 2000, pp.29-32.

Myles Horton & Paulo Friere, We Make the Road by Walking: Conversations on Education and Social Change (Philadelphia: Temple University Press, 1990)

Peter Joy, Political Interference with Clinical Legal Education: Denying Access to Justice, 74 Tulane Law Review 235 (1999)

Gerald López, Training Future Lawyers to Work with the Politically and Socially Subordinated: Anti-Generic Legal Education, 91 West Virginia Law Review 305 (1988)

Ernest Lynton and Amy Driscoll, Making Outreach Visible: A Guide to Documenting Professional Service and Outreach (1999)

Deborah Maranville, Infusing Passion and Context into the Traditional Law Curriculum through Experiential Learning, 51 Journal of Legal Education 51-74 (2001)

David Mathews, The Public's Disenchantment with Professionalism: Reasons for Rethinking Academe's Service to the Country, 1 Journal of Public Service and Outreach 21 (1996).

Philip Nyden, et al, eds, Building Community: Social Science in Action (1997)(Thousand Oaks, Cal.: Pine Forge Press)

Glenn Omatsu, Teaching for Social Change: Learning How to Afflict the Comfortable and Comfort the Afflicted, 32 Loyola Los Angeles Law Review 791 (1999)

Peter Pitegoff, Law School Initiatives in Housing and Community Development, 4 Boston University Public Interest Law Journal 275 (1995)

Peter W. Salsich, Jr., The Urban Housing Issues Symposium: Interdisciplinary Study in a Clinical Setting, 44 St. Louis University Law Journal, no. 3, pp. 949-986 (2000)

Stuart Scheingold and Austin Sarat, *Something to Believe In: Politics, Professionalism, and Cause Lawyering*, Stanford University Press (2004)

Patricia Meyer Spacks, ed., Advocacy in the Classroom: Problems and Possibilities, St. Martin's Press, New York (1996).

Stephen Wexler, Practicing Law for Poor People, 79 Yale Law Journal 1049 (1970).

Randy Stoecker, Community-Based Research: From Practice to Theory and Back Again. 9 Michigan Journal of Community Service Learning (no 2) pp 35-46 (2003)

Kerry Strand, Sam Maruko, Nicholas Cutforth, Randy Stoecker, and Patrick Donahue, Community-Based Research and Higher Education: Principles and Practices. San Francisco: Jossey Bass (2003)

Lucie White, The Transformative Potential of Clinical Legal Education, 35 Osgoode Hall Law Journal 603 (1997)

Lucie White, Pro Bono or Partnership? Rethinking Lawyers' Public Service Obligations for a New Millenium, 50 Journal of Legal Education 134 (2000)

Steve Wizner, Is Learning to Think Like a Lawyer Enough?, 17 Yale Law & Policy Review 583 (1998)

B. Organizations, projects, websites on service learning, community partnerships, social justice

Campus Compact

<www.compact.org.>

A national coalition of college and university presidents committed to the civic purposes of higher education. See publications on this list for a flavor of CC's work in promoting service learning and university-community partnerships

Educators for Community Engagement

<<http://www.e4ce.org>/>

"A national organization dedicated to service learning. We are faculty and staff, community partners, and students working toward a common goal--increasing the practice of service-learning across the United States."

National Review Board for the Scholarship of Engagement

<<http://www.scholarshipofengagement.org>/>

Aims to provide peer review for "the scholarship of engagement"

Contacts: Lorilee Sandmann, Vice Provost for Institutional Effectiveness and Strategic Partnerships at Cleveland State University, and Amy Driscoll, Director of Teaching. Learning & Assessment at Cal. State Monterey Bay.

The National Service-Learning Clearinghouse

www.servicelearning.org

"America's Resource for Service-Learning Information" (NSLC) is a program of Learn and Serve America www.learnandserve.org and the Corporation for National and Community Service www.cns.gov and is managed by ETR Associates. NSLC provides timely information and relevant resources to support service-learning programs, practitioners, and researchers. NSLC serves and supports grantees of Learn and Serve America, AmeriCorps, Senior Corps, and anyone interested in service-learning, including teachers, researchers, parents, and policymakers. Toll-free 866-245-7378, ext. 139 denisel@etr.org

Office of University Partnerships, Dept. of Housing & Urban Development

<<http://www.oup.org>/>

C. Periodicals on service learning, community partnerships, social justice

The Campus Compact Reader: Service Learning and Education.

<<http://www.compact.org/reader/>>

A newsletter published by National Campus Compact three times a year

Journal of Public Service & Outreach

<www.uga.edu/~jpso/index_2.html>

A national peer-reviewed journal published at the University of Georgia for several years in the nineties. Abstracts available on line.

Michigan Journal of Community Service Learning

<www.umich.edu/~mjcs/>

A peer-reviewed journal in the tradition of the scholarship of teaching and learning
Published twice yearly

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Practical tips on this methodology

In this section I offer some varied pieces of hands-on advice about the conduct of community-based field projects in the law school setting. Like the rest of the site, this segment is open-ended, and further postings may be added in the future.

A. [Tips for community groups](#)

Identifying good project settings
Some words to the wise about law students

B. [Tips for law students](#)

Relating to community partners, planning teamwork, etc.

C. [Tips for teachers](#)

Confidentiality concerns:
lawyer-client, human subjects, child abuse

A. Tips for community groups

Summer 2004

From the point of view of a community-based group, collaborations with college and university students can sometimes be terrific. When they go well, they can be rewarding for all parties concerned, and they do sometimes produce actual, concrete deliverables for grassroots groups. However, they can also turn out to be a real headache, and a thief of a group's scarce time. I certainly have no magic pearls of wisdom that can guarantee good outcomes, but I think there are some ways that a community-based organization can improve its chances of finding good matches and avoiding poor ones.

First, if you are a visitor from a community-based organization, you may want to take a look at another part of this page, where I attempt to lay out a set of predictors for projects that I believe are likely to end up as "good" placements. The section is called "[Identifying Good Project Settings](#)," and you can find it in the section of the Teacher's Overview called Emerging Lessons. (As you will see, my course goals include a place for the interests and needs of the community group, and also a place for the interests and needs of the students. For a given project, the goals for the group would need to be further fleshed out. At any rate, the discussion of objectives should give you a window into how teachers may approach course-related community projects, and how they think about their goals for student learning. I make no claim that my approach is typical, but at least it gives you one example.)

Second, you might be interested in an advisory document that I have sometimes given to community partner groups to help them get ready to host, supervise and collaborate with law students in my courses. In it I try to point out some things about academic institutions, their customs and cultural practices, that may help community groups better understand and plan for working with students and professors. [Click here](#) to see the document.

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Course Documents

Viewable from this section are a number of course documents that should give a closer look at what I am doing in my classes, and may suggest approaches that others want to explore. These items are here for sharing. If you find them helpful (or in need of revision!) I welcome your feedback.

- A. Sample project lists from three past courses
- B. [Questionnaire designed to help students construct an organizational profile](#)
- C. [Handouts aimed at explaining myself to my students](#)
- D. [A guidance memo for students about end-of-semester reports](#)
- E. [Forms for eliciting feedback about community placements](#)

A. Sample project lists from thee past courses

Each semester that I teach a fieldwork course, I produce a menu of potential projects that students may want to undertake in the class, and it gets distributed during the first week of the semester. Few law students have current contacts with community-based organizations, and they generally appreciate having suggestions provided. At the same time, I always invite students to propose their own alternatives if they like. I want course projects to be genuinely exciting for each student, and I want to avoid having anyone feel restricted or hampered by the options I list, especially since many of them reflect my own interests and past collaborations.

Students are informed that community groups must give their approval before assignments are final. Potential partners are likewise warned that being listed on a course menu is not a guarantee that their project will end up being selected by a student or a team. Each semester there are projects listed on the menu that do not get chosen, and almost each semester I have one or more students who bring their own “off menu” proposals to the class.

1. Project menu for a course on welfare reform

This first menu was developed for a course I co-taught with visiting sociologist and Appalachian Studies elder, Helen Lewis in Spring 1997. The theme of the course was welfare reform, so all the projects and possibilities that we listed on the menu were related in one way or another to that issue. (At the time, Tennessee was just launching its version of welfare reform in the wake of sweeping federal legislation that abolished the previous entitlement program for poor single mothers and replaced it with a new system of temporary aid aimed at moving welfare recipients into paid employment. Tennessee's new program under this regime is called Families First.) Note that the class included both law students and graduate students from a number of other social science and professional fields. The projects reflect that breadth.

To view the menu for the welfare class, [click here](#).

2. Project menu for a course on immigration in Tennessee

The second menu posted here is from a course that was organized a little differently. The class was made up of law students only. Rather than assign students to separate free-standing projects, I decided to declare that the class as a whole would constitute an investigative team. Our goal was to explore a new phenomenon then (and still) unfolding in Tennessee: the arrival of a new population of Latina/Latino immigrants in a region long unaccustomed to foreigners in its midst. We worked with various networks of people in the community. Many students worked on multiple projects, and many of their specific efforts overlapped and intertwined, with the result that the whole project felt more like a single group undertaking than my field classes usually do.

The web page discussed in this menu document did get created -- by a team of students with and without prior web experience. In fact, it is still up on my university's server, where viewers are welcome to visit it at [<web.utk.edu/~tnlatina/>](http://web.utk.edu/~tnlatina/). If you visit, you will immediately see that the site cries out for updating and “refilling,” an effort that may yet happen, but is still presently on hold. At present the site represents an archive only, a snapshot in time. Warning notices are posted on each page accordingly. One clear lesson I took from the experience is that maintenance costs can be substantial on a site that requires any significant updating.

To see the menu for this class on new immigration in Tennessee, [click here](#).

3. Project menu for a course on social justice lawyering

The third menu is taken from a later course whose theme was broadly lawyering for social justice. There are trade-offs in choosing such a general theme. It is more difficult to plan readings and class activities that bridge disparate projects, and the teams have less common ground on which to construct helpful dialogue about what they are encountering in the field. On the other hand, a broader theme allows students to learn from each other about a greater variety of issues, and it can sometimes create an opportunity for productive comparisons and contrasts. It also accommodates a wider range of interests from students who are considering signing up for the course, with a favorite interest they want to pursue, and it allows the teacher more freedom to tailor certain projects to the strengths and interests of individual students.

To see the menu for the social justice course, [click here](#).

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Emerging Lessons

Fran Ansley

From spring 1996 to this writing in Summer 2004, I have been experimenting in different ways with the use of community-based field projects as a teaching method in law school. At my count, over the span of those eight-plus years, 176 students have carried out 96 team or individual projects in connection with 18 different courses or independent study projects under my sole or joint supervision. The courses have covered a range of substantive topics, the projects have been variegated, and my own goals have often been complex. Accordingly, it is not easy to draw out the lessons from such a multi-faceted undertaking. Nevertheless, drawing out lessons is the task this section is designed to begin.

- A. Figuring out what one is really after
- B. [Identifying good project settings](#)
- C. [Living in time](#)
- D. [Valuing and examining commitments](#)

A. Figuring out what one is really after

The most compelling research on how to translate today's strong learning theory into practice suggests that teachers need to design their courses and their methods in light of their goals for student learning. Learning goals are, of course, never set once and for all in stone. Like everything else in teaching, they should be subject to continuing re-evaluation and cyclical adjustment. Nevertheless, says the research, learning goals should drive course assignments, should thread explicitly through class discussions, and should inform the various kinds of formative and summative assessments planned and carried out by the teacher. Further, they should be fully visible to the students throughout the trajectory of the course.

No matter how convincing and commonsensical these conclusions may be, I find that articulating course goals, and making sure they strongly inform course assignments, discussions, and assessments, turns out to be a particularly difficult mandate for me to obey. My goals seem always to be numerous, complex, and ever-evolving, even when I do my best to pin them down.

Further, in a fieldwork course that takes seriously its external component, things are even more complex. Goals for student learning do not occupy the entire field, but share it with other equally demanding objectives related to the impact and quality of the work done and relationships built in the community. With many others in the service learning movement and its various tributaries, I take the view that student learning goals in my courses do not have automatic primacy over community service or community justice goals. *Both* sets of goals are primary. Often, of course, the two sets are complementary. (In fact, at one level, having my students understand why I put the needs of the community on a par with or higher than the needs of law students is one of my primary goals for student learning!) But in reality, at least in the immediate term, student learning goals and community service goals will sometimes conflict, and when this happens in my classes, there is no automatic trump for student learning over community benefit.

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Project History

Fran Ansley

For a number of years here at the University of Tennessee College of Law I have been teaching classes in which law students carry out community-based fieldwork with local organizations and agencies. The projects are law-related, but they seldom involve the traditional provision of legal services, tending more often to fall into the category of community legal education. In most of these projects, the education about law ends up flowing both ways: my students and I learn from community partners how law and the legal system actually operate in their complicated lives, and in return we work to find and communicate back to them what "law on the books" currently has to say about their rights and vulnerabilities.



In the 2000-2001 academic year, I had the good fortune to join a cohort of scholars at the Carnegie Academy for the Scholarship of Teaching and Learning. During that privileged year, I was given the chance to look more systematically and reflectively at my experience with fieldwork as a pedagogical method, and to do so within an interdisciplinary circle of fellow teachers. All of us in the cohort were actively engaged in learning about "the scholarship of teaching and learning," while carrying out specific inquiry, analysis and reflection about our own teaching practices through a variegated array of concrete research efforts.

My own project with Carnegie focused on the use of community-based fieldwork, and this web page is one direct result of that endeavor. I hope it will prove useful first to future law students who are trying to imagine and design projects of their own, including students here at the University of Tennessee who may be trying to better understand what I am looking for, or open to, when I assign community fieldwork. Second, I hope it will also be of interest to teachers in law schools and elsewhere who want to use similar strategies in their courses.

A note of warning about time

The process of making the site has involved much more than I anticipated at the outset. Many of the tasks involved in building a website call for special skills and hardware, and all of the tasks require time – occasionally a lot of time. Delays were occasioned by many factors: the need to secure funds and technical assistance; the need to get input, approval and consent from students who had already graduated and moved on, as well as from their community collaborators; the transaction costs involved in doing something in fits and starts that required repeated re-capturing of where I had left off the last time; and the fact that the world of website creation, HTML, Dreamweaver, and digital imagery has been an entirely new one for me.

In retrospect, it is clear that I could never have carried this project to a successful launch had it not been for the opportunity to collaborate with a member of our law library faculty who brought key technical skills and know-how to the table. Cathy Cochran, the College's computer services librarian, agreed to join me in this project soon after it began, and she has played an indispensable role at every stage since.

A word from Cathy Cochran

Like Fran, I had little idea what would be involved with this project when we first began. Although my specialty is information technology, I had never built a site that was this complex before, and I was acquiring many of the needed skills on the fly as we worked through the various problems we encountered. I was able to provide liaison to technology people and technology resources around campus, to advise on hardware and software questions, to finish constructing the site after the designer turned over the basic structure to us, to create audio-visual features, and generally serve as all-around producer in consultation with Fran about content and appearance.

Fran and I agree that we have enjoyed this collaboration. Both of us are glad we undertook it, and both of us feel we have learned a great deal from the process. We are also proud of the final product. On the other hand, we also agree that it is appropriate here on the "Project History" page of the site to observe that this project's history was lengthy and at times demanding. The chronology we have set out below should make this statement a bit more concrete.

Basic chronology

Summer 2001 - Fran decides to build website

Fall 2001 - Grant acquired from campus technology program (estimated launch: 2002)
Cathy joins the project

Winter/Spring 2002 - With web designer at IT center, developed tentative structure

Summer 2002 - Assembled and got student approval for first two permanent exhibits

Fall 2002- Spring 2003 - Created/mounted more content, revised some structure

Summer 2003 - Took over the partly-finished site from the IT center

Fall 2003- Summer 2004 -Finished creating and mounting the exhibits and Teacher Overview

Fall 2004 - Launched the site!

Viewers who are interested in using the web to go public about their own teaching and learning, but who are a bit daunted by the time-line set out above, should visit the website of the Carnegie Foundation for the Advancement of Teaching. It provides information about the Foundation's Knowledge Media Lab and its KEEP Toolkit, "a set of web-based tools that help teachers, students and institutions quickly create compact and engaging knowledge representations on the Web." The Toolkit offers a way for teachers at all levels to create displays in much less time than the present site seemed to require of two novice web-builders who were learning on the job.

www.carnegiefoundation.org/KML/KEEP

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project story: Austin East High School

Every semester since Fall 2002, at least one team of law students from one of my courses has worked with students at Austin-East High School here in Knoxville. This is a school whose students face many stiff challenges, are subject to many risks, and are also full of much promise.

For more information about Austin-East, click [here](#).

At Austin East we are the invited guests of the school administration and of Mrs. Loretta Perkins, a veteran English teacher. Mrs. Perkins is always looking for ways to enrich her classroom and to engage her students in reading and writing about subjects they care about. We have found that the young people in her classes are usually quite interested in learning more about law and the legal system. My students have also found that the pupils at Austin East have a lot to teach them -- about the way that law plays out in their lives, and how "law on the streets" is sometimes importantly different from "law in the books."



Each semester the students from UT and from Austin East have decided to pursue different topics through different means. Subjects have included the juvenile justice system, family law issues, violent crimes and their punishment, school rules on matters like the dress code and absentee policies, the history of school desegregation, and the role of the media in framing public opinion about law.

The first semester of this partnership, three different English classes collaborated to produce an anthology of student writing, and we ended the semester with a party at Austin East. More recently, we have been inviting the Austin East students to the law school at the end of the semester. Each of the classes works toward this event over the course of the semester by creating a trial of some kind based on issues they have been discussing in class, and usually based on a narrative they themselves have constructed. When the Austin East students come to the law school, they get a tour of the school and a pizza lunch. But the high point of the day is when they present trial scenes in one of our moot court rooms.

The project has proved to be a highly successful partnership. Of course, Mrs. Perkins and I, and the students as well, are constantly aware of things we hope to improve, and we are regularly frustrated at the constraints we face, given the demands of law student schedules and the demands of high-stakes standardized testing in Knox County schools. Nevertheless, we are very pleased at what has been accomplished so far, and it has been exciting to see the synergies created between the two different worlds of this inner-city high school and this college of law.

One challenge with which we are still struggling is how to get better at securing the consent of both the high school students and their parents or guardians, so that I can post photographs of the high schools students on this website. It turns out to be quite a task, and we have many wonderful images that we cannot post because consent forms have not been returned. Luckily, we do have some fine photos that you may view by clicking [here](#).

Project carried out: Fall 2002 to present
Exhibit developed: Summer 2004

[Law Student Alums of the Ongoing Austin-East/UT College of Law Partnership](#)

project story: Consumer Education for Immigrant Home Buyers

In fall 2003, 3L Chris Cowart, a student in my Community Legal Education class, responded to an invitation from [Legal Aid of East Tennessee](#) to join them in an educational intervention into our local housing market. LAET had learned that many new Latino immigrants in East Tennessee were buying homes through "lease purchase agreements" rather than conventional mortgages. This was a cause for concern because such agreements are generally much less favorable toward home buyers, and much less protective of their interests, than are traditional mortgages.

The trend seemed to be driven largely by the fact that many immigrants were undocumented and could not provide the social security number that conventional lenders then uniformly required before they would write a mortgage. As a result, a number of alternative practices were emerging outside the normal channels.

LAET was worried that unsuspecting buyers were going to end up getting burned. They suggested two steps: drafting a model lease-purchase agreement that would offer more protection for buyers, and educating key audiences about the potential dangers embedded in these lease-purchase arrangements. Chris was well-equipped to take on this project, since he had worked in the real estate business and had studied real estate finance. Nevertheless, he ran into many surprises and frustrations as he tackled the job. For instance,

Drafting a model lease-purchase agreement turned out to be difficult. Repeatedly, Chris would identify a weakness in the lease-purchase approach, only to realize that its real solution was a mortgage, not contractual re-drafting. Meanwhile the main barrier to obtaining a mortgage lay with federal immigration policy--certainly not something Chris was in a position to change through consumer education.

As for key audiences, it was hard to figure out exactly who that was. Immigrant home buyers themselves were obviously important. However, they were a difficult population to find and communicate with in time to keep them out of trouble. Chris and LAET discussed two other audiences that might be easier to identify and reach: first, the *sellers* of homes, and second, general service providers to the Latino community, since they were often in a position to provide advice.

It was decided to target service providers and to start by developing a brochure. But Chris still faced many challenges. The concepts and vocabulary involved in real estate finance are complex. It was also hard to explain lease-purchase agreements in isolation. As Chris observed:

Even though I tried to take language into account, it is very hard to explain anything in the home financing arena in simple terms. In my first attempt to draft a "warning brochure" about lease-purchase, the necessity of providing a little bit more background about the home-buying process became clear. My next move--an attempt at a simple version of a talking-points memo on home-buying in general--was close to ten pages and probably required financing classes to understand it! While I thought all of the information was important, not all of the information really served to aid a general understanding. . . . After all, there is an entire law school course devoted to real estate financing. So, I just started deleting everything I thought was not absolutely necessary. I ended up with a product that made more sense because it included less information to add to any confusion. From there, I decided to merge my original brochure with my talking points in order to come up with the current version of my educational materials directed to service providers so that they can understand the basic notions of what the dangers of lease-purchase agreements are.

LAET was very pleased with Chris's final draft, and they expected to share it with service providers, bankers and others interested in the problem of increased access to credit for immigrant home buyers. This area is a volatile one, in terms of both public and private policy, and I should note that progress has been made in some areas since Chris finished his work.

To see Chris's first draft of a brochure, focused on lease purchase, click [here](#) .

To see his final draft, simpler and with more general background, click [here](#).

Project carried out: Fall 2003
Exhibit developed: Summer 2004

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project story: A Photo Essay and the Search for Shelter

In fall 1998 Jennifer Buck carried out a project in collaboration with Knoxville Legal Aid Society (KLAS), now Legal Aid of East Tennessee. At the time, Knoxville was in the midst of its first mass demolition of public housing under the federal HOPE VI program. Controversy about HOPE VI was widespread -- not because of the low density and income diversity that were the announced goals of the program, but because it lacked a commitment to one-for-one replacement of low-income units destroyed.

Jennifer's case involved not this core HOPE VI policy question, but a matter of collateral damage. Knoxville's planners had decided that post-demolition redevelopment would require additional land, and the city announced it was going to take and tear down a group of homes and several small African-American churches bordering on the public housing site. Local advocates saw considerable irony in the city's decision to evict an entire row of long-term owner-occupiers – all in the name of stable and liveable community. Despite substantial research, however, Legal Aid had failed to find any legal theory sufficient to save the women's homes.

By the time Jennifer arrived on the scene, although they had her do one final legal memo, the focus had basically shifted to winning acceptable substitute shelter. Like so many lawyers who represent poor people, the staff at Legal Aid had to think beyond law, putting to use whatever political, moral or other non-legal leverage they could muster. They suggested that Jennifer might help in this process by gathering oral histories of the people who were scheduled for eviction and then working with KLAS to find ways to deploy that information. When Jennifer told them of her budding interest in photography, they were excited, and soon her assignment expanded to include a photo essay in addition to the interviews.

Early in the semester, Bill Murrah, the community developer on staff at Legal Aid, arranged to take Jennifer over to the neighborhood and introduce her to the principals. It was soon clear that Jennifer had a winning way with these elderly clients, and a telling eye for the beauty in their faces and the well-tended dignity of their modest homes. When Bill saw the photographs Jennifer had made, he knew that KLAS had gained a powerful advocacy tool. He helped organize a high-profile event designed to persuade city officials that they should take seriously the matter of replacement housing.

What transpired was a strategic "celebration" of the lives of the homeowners and of their contributions to the community. Held at one of the churches slated for demolition, it featured a lavish cake, a lovely punchbowl, the homeowners and their friends and families, a reporter from the local newspaper, several city officials responsible for HOPE VI, and in the place of honor, a large stack of spiral-bound booklets featuring Jennifer's oral histories and photographic tribute.

Many of us continued to feel that the city's decision to take these homes was a misguided one. To us it reflected a misunderstanding of the relative contributions to community that bricks and mortar on the one hand, and rooted human beings on the other, are really capable of making. But in the end, the city did help find acceptable alternative housing, and Legal Aid assured us that Jennifer's contribution made an important difference in the outcome.

For Jennifer, the experience was an eye-opener. First, it revealed to her how much pleasure she took in photography, cementing her commitment to that medium and to her own development as an artist. Further, it expanded her notion (and that of her classmates as well) as to what effective poverty lawyering is all about. Meanwhile, as to the impact of Jennifer's project on her teacher, this web site itself is probably the best evidence. I have been hungry for more art in my courses ever since.

[Search for Shelter image gallery](#)

Project carried out: Fall 1998
Exhibit developed: Summer 2004

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Spousal Rape Campaign

Law Student : Jennifer Lichstein

In this project a law student worked with the Tennessee Task Force Against Domestic Violence and other coalition members to press for an end to the spousal rape exclusion in Tennessee. She developed a letter and petition campaign, attended a citizen training workshop on grassroots lobbying, and visited state legislators at the capitol. She also worked with two other students to direct, edit and produce a videotape that presented the case to legislators and other opinion leaders about why rape of a spouse should be treated as seriously as rape of anyone else.

Project Story

Collaborator Perspectives

Student Reflections

Project Artifacts and Images

Teacher's Comments

Related Resources

Project carried out: Spring 2000
Exhibit developed: Summer 2002

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IDEA Inclusion Project

Law Student: Barbara Dyer

In this project a law student who is also the parent of a child with Down syndrome and a strong lay advocate for the educational rights of children with disabilities, worked with graphic designers, a choreographer, and a group of young, variously abled dancers to produce an installation and performance event where the children danced among a forest of panels arrayed with information about the Individuals with Disabilities Education Act. Both the dance and the visual display highlighted the legal rights of children with disabilities, as well as the educational value to all students that flow from fully inclusive learning environments.

Project Story

Collaborator Perspectives

Student Reflections

Project Artifacts and Images

Teacher's Comments

Related Resources

Project carried out: Fall 2001
Exhibit developed: Summer 2002

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Tennessee Immigrants and Criminal Justice

Law Students: McKenna Cox, Kimberly Pride, and Michael Wright

In this project three law students, working in conjunction with a local Latino community organization, carried out a preliminary investigation on immigrants and the criminal justice system in the Knoxville area. Using a participatory research approach, students conducted interviews to develop a broad sketch of Latino immigrant community interactions with the criminal justice system and to identify specific areas of concern for future investigative, organizing, and advocacy work.

Project Story

Collaborator Perspectives

Student Reflections

Project Artifacts and Images

Teacher's Comments

Related Resources

Project carried out: Spring 2004
Exhibit developed: Summer 2004

En Español

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Practical tips on this methodology

B. Tips for law students

Summer 2004

Students in my own courses should of course consult our own handouts and class discussions for my best, most timely, and well-tailored advice related to the specific course in question. I hope that the advice below will be helpful in a more general way, both to students in my own courses and to other students interested in the methodology highlighted here. These suggestions are condensed and somewhat telegraphic, but each comes from many stories and observations gleaned from other students who have worked to help me see what can help students do well in field placements.

1. Invest in getting to know your partner group, its constituency and its issues – Time spent listening, observing, and building a relationship of respect and trust with your partner group is gold. If you are a law student, it may be hard for you to change tempo enough to do this. You may feel compelled to be achieving something every minute, or tangibly advancing your project. But try to be patient and receptive. It almost always pays off, both for you and for the partner group. Getting to know the issues may call for independent reading, on-site observing and interacting, or other kinds of investigation. If you choose a project where there is substantial social distance between you and the community you are working in, then your commitment to listening and learning may be especially demanding, but may also prove especially rewarding..

2. Get organized – This will mean different things for different students, of course, each of whom will bring different experiences of organization and different personal leanings. In any event, because so much of a typical student's time is closely dictated by the authorities, I believe law school pushes most people backward from wherever they started in their ability to organize their own time or to structure a project on their own. Getting through a week requires a lot of plain hard work from most law students, to be sure, but it requires very little organizational initiative. Below are some specific ideas about organization in case they do not already come naturally, which I have found they do not for quite a few law students:

a. Maintain a calendar, and lists of contacts and tasks – If you do not already carry something with you – whether paper or digital – that lays out a calendar, captures your contacts, and has a place for you to write down the things you need to do, then start doing so at once for your community field project. Never go to a meeting about your project without these tools in your possession. Team members should trade information about their respective schedules and how to reach each other, and this information should go into your planner.

b. Make a semester work plan – This does not have to be anything elaborate, and it will almost certainly change as your project evolves. But a work plan should allow you to see the big picture. All external and self-imposed deadlines should be clearly identified, and tasks should be mapped on a projected time line. For a semester project, laying out the weeks of the semester, and assigning tasks by the week is usually a reasonable way to get started.

3. Remain flexible – It is quite a trick to get and stay organized, while maintaining serious flexibility. Nevertheless that trick is often precisely what is required for community-based fieldwork of the kind featured on this website. Grassroots groups tend to operate on a shoestring, and they can face unanticipated emergencies that require changes in course and alterations of schedule, as scarce staff time is allocated to emergent demands. Projects that began as center stage get moved to back burners or even dropped altogether. Accordingly, academics and students who work with these groups must often roll creatively with the punches if they hope to survive and contribute. One step you can take is to develop fall-back plans that can act as a safety net for your semester project. Try to always have ready a list of items that will advance the project and that you can carry out on your own if other plans fall through in a given week or even on a larger scale.

4. Pay attention to team dynamics – If you are working as part of a law student team, you should expect that the team itself will require a certain level of time and energy. Knowing how to work in a group is something most lawyers and community activists need badly. Yet we seldom provide students with significant teamwork experiences during law school. One step that can help is to talk expressly within your team about expectations, roles, work styles, and communication -- both at the beginning of the semester and periodically throughout. You do not have to wait for problems to arise, quite the contrary. Further, you should not be afraid to consult with your professor about problems if they arise, but your first step should be attempting to resolve difficulties between or among yourselves, within your work group.

5. Have fun. (Really important.)

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C. Tips for teachers

Summer 2004

Tips for teachers are scattered across this web site, both in the Teacher's Overview and in the Teacher's Comments featured in Permanent Exhibits. In this section I hope to provide discussion and materials on issues that I believe are likely to recur for teachers who decide to assign community-based field projects in their courses. My intention is to put practical aids at the disposal of those who may be facing similar issues.

At this writing, this site approaches its initial launch date. I will begin with an important threshold matter, the issue of confidentiality. However, there are other areas that would be appropriate for future examination in this space as well. For instance, additional questions of legal ethics -- such as the prohibition on solicitation of clients and that on the unauthorized practice of law -- often surface in the context of community-based placements for law students. Teachers who plan to assign field projects also need to consider a number of mundane issues. They should know how to find money that can support community-based field projects, and they should help their students learn about fund raising for projects as well. These and other issues, however, will have to await another day.

On confidentiality

- a. [The lawyer-client relationship](#)
- b. [Research involving human subjects](#)
- c. [Mandatory reporting of child abuse](#)

Issues of confidentiality are all but certain to arise in the course of field placements like those I assign. So this is one question I do not wait for, but I embed it in my syllabus from the start.

My students often find themselves asking people to help them understand some social phenomenon, some aspect of law or the legal system, or something about their own life experience. Receiving answers to these requests inevitably raises moral, legal, and political questions about the terms of these information exchanges, about the proper uses and misuses of the information elicited, about possible obligations to guard confidences and possible duties to divulge them. My research about my teaching raises confidentiality questions as well, since I am at least in one sense studying my own students. Questions about confidentiality can thus arise in many different settings, and may have to be considered from several different points of view and in light of several different kinds of legal or other standards. A few of these are explored below, but of course these specific topics do not cover all the settings or dilemmas that can arise in the field.

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Emerging Lessons

B. Identifying good project settings

Introduction

Given the working list of goals set out above, what kinds of project settings are most likely to support their achievement? Nothing in community work is guaranteed, of course, but I am interested in identifying reasonably reliable predictors of situations likely to produce successful outcomes.

Of course, some elements of a successful project are less a feature of the placement setting and more my own responsibility as teacher and course designer. For instance, in my courses, I take some responsibility to help assure a concrete benefit to the partner group, and respectful treatment from the students. (The students and I talk about these issues in class, and they are woven into course requirements and evaluations. I assign readings and audio-visual materials that demonstrably value the work of community-based social justice groups and their contributions to law creation and enforcement.)

I explain to those in my classes that we will come into partnerships less as experts or saviors, and more as learners and novice collaborators. In some sense this valorizing of the community partner stands the usual image of lawyering on its head – at least if the context involves low-income or otherwise disadvantaged people. But I do not mind if students are surprised or a little unsettled. I explain that we will be thinking critically about the uses and abuses of professional expertise, and that we will be trying to see and question some of the unspoken assumptions embedded in many of our ideas about the proper relationship between professionals and groups they serve or represent.

The ability to assure good outcomes is not all within my power, or that of the students, however. Placements that yield benefits to community groups and produce good relationships depend also upon the groups and the settings themselves. My experience to date suggests that the following characteristics of partner groups and community settings are predictive of projects that are likely to support achievement of the goals outlined in the previous section.

1. The community group has strong grassroots leadership, serious organizational capacity, and is in active motion on an issue or problem.
2. The group has a good understanding of the needs, capacities and constraints of law students.
3. The project allows students to reclaim and enjoy “lost” skills and connections that they have put aside under the pressure of law school.
4. Law and the legal system play an important role in the problem that the community group is tackling.
5. The problem or issue at hand is one that the student feels passionately about and perceives as a matter of justice.

A NOTE ON OTHER DISCIPLINES BEYOND LAW: You can see that this working list of favorable predictors is shaped in part by my location in a law school. Not all these predictors will apply to undergraduate settings, or to graduate and professional disciplines other than law, although some of them clearly do.

For those interested in other disciplines, I offer one additional resource. Several years ago, I helped to create a multidisciplinary program at the University of Tennessee called the Community Partnership Center. The CPC made extensive use of community field projects. Our mission was to link university researchers and teachers with community-based organizations, using the institution’s research capacity to address community-identified problems and to train teachers and students in collaborative and participatory work. At one point the Center received a small grant to promote service learning on campus, as a natural outgrowth of the “service research” effort we had initiated. We decided to use the money to encourage more teachers to embark on high-quality service learning endeavors, and we announced the availability of incentive funds for teachers all over campus, from any and all disciplines, who wanted to begin doing this kind of work with their students in the community. We developed a set of guidelines that included a list of “markers of likely success” at the kind of projects we wanted to see.

To see these guidelines and the associated markers of success, see PDF of [“Provisional Guidelines for Service-Learning Grants from CPC Curricular Incentive Fund.](#)

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Some Words to the Wise about Law Students – for Community Groups Considering a Collaboration

This handout is written for groups that are thinking about agreeing to work with a law student on a law-related community project. Its purpose is to give you and your group some information that will help you understand law students better, and will put you in a better position to plan and benefit from working with them.

Most law students are basically well-intentioned, smart and responsible. However, they are also functioning in a pretty stressful environment and are more or less getting their heads pickled in a process that makes them feel and sometimes act like they are in a different world from other people. In addition, many of them do not have previous experience working with community-based grassroots organizations, and they are not necessarily familiar with the kinds of issues and challenges such groups must deal with.

So there is a need on both sides to better understand each other, and my hope is that this handout will provide you with information that will help you plan your work and build your relationship with a law student in a way that feels good and pays off for both of you. When collaborations between community groups and law students go well, they can be inspiring and even life-changing for the students, and of course good collaborations can produce concrete benefits for community organizations as well. But good partnerships do not just happen. I hope that the information below will help you plan and build a good one. Here are a few observations about law students:

1. Law students often have busy schedules that are not very flexible.

Most law students lead pretty chopped-up lives. Their classes meet in little segments that are sprinkled across the week -- sometimes at intervals from early morning until late in the evening, with small chunks of time in between. Once they are past their first year, many law students also have paid jobs at law firms or agencies, with time slots for work scheduled elaborately into the rest of their weekly calendar. And of course some law students have family responsibilities as well. At any rate, it can sometimes drive you crazy just trying to find a time to meet with them, and it may seem at times that they are being unreasonably rigid or hard to reach. But in most cases, the fault is not theirs, but lies in the structure of their situation.

I will be explaining to them that your organization also has limited time and that you probably have scheduling problems of your own, and I will urge them to work hard to adjust to your needs. I will also remind them to provide you with good information about how you can reach them, by phone, e-mail, etc., if you need to contact them about scheduling or anything else. So I hope you will not run into serious problems. But just having an awareness of the tightness of their usual schedules will also be a help.

2. Law students are not yet lawyers.

This may seem obvious, but it can be important. Law students are still in school. They have not yet taken all the courses they need, they have not yet taken the bar examination, they have not yet been licensed to practice in any state, and with a limited exception for some students who are enrolled in the Legal Clinic, they have not yet been admitted to practice before any court.

One important thing this means is that like any other non-lawyer, law students are prohibited by law from engaging in the “unauthorized practice of law.” For instance, they cannot on their own provide legal advice to an individual or group. Because of this rule, it is not uncommon for a law student to suddenly start explaining, maybe with a tinge of anxiety, “I cannot give you legal advice. This is not legal advice.” They are not doing that to be slippery or evasive, but because they are not legally allowed to give advice, and they have an obligation to make sure people understand that.

Sometimes my students work on projects where they are being supervised by a licensed attorney. In that case, the group involved may indeed receive legal advice during the life of the project, and some of it may be communicated by the student. However, in that case, the advice is really coming from the licensed attorney, and not from the student.

Although law students cannot provide legal advice to a group or individual, they are able to provide general legal information, and they can help conduct educational events about law and the legal system. Many of the projects that my students do fall into this category.

I say all of this only so that you can have a better picture of what a law student can and cannot do for your organization in the context of a field project in one of my courses. If your organization has a need for specific legal advice – either for itself or for its members, that is not the kind of thing a law student working alone can reliably or legally provide. However, I will be happy to talk with you about possible ways you might find a lawyer who can help. In some cases, we may be able to arrange for a law student to work with you on such questions under the supervision of a qualified attorney.

3. Law students live under the iron fist of the semester system

Law students live and must organize their lives according to a rigid semester rhythm that consists of 14 weeks of classes, followed by an examination period. Exams in law school are a really big deal, because grades in most courses are based mostly on a single final written examination, and a student’s overall grade point average can be a huge factor in his or her ability to get a job. This system means that most law students virtually drop out of any other activity once exams draw near, so they can focus all their energy on doing well in the exam. Therefore, you need to be prepared for your law student partner to turn suddenly into a pumpkin toward the end of the term.

Fall semesters at UT law school run from mid-August up through the end of November or early December, but really students tend to start disappearing at Thanksgiving. Spring semesters usually run from the second week in January through late April, but again, students start disappearing by

mid-April. Throughout the semester I try to keep reminding myself and the students of the overall time frame and to plan our activities accordingly. But it is never easy to accept the limitations of the semester.

In addition to the overall semester schedule, you should be aware that I tell my students there is a weekly time expectation. Normally, students in fieldwork courses will spend an average of three to eight hours per week on their community projects, depending on what else is going on in a given week, and the demands of the projects. Over the course of an entire semester, this means that projects can range from around 40 to 100 hours of law student time, but that includes time they may spend doing things like traveling to your site, writing up weekly time sheets that I require, and preparing a final report. I encourage students to develop a semester work plan and to manage their time effectively. But you can help too.

For instance, one step you can take is to figure out important dates and deadlines during the semester, and to space them out so they help the work to flow and to get finished by the end of the semester. In figuring all this out, it is important for you to take time to talk with your student partner so that you can clarify expectations and develop a time-line tailored to accommodate the semester and the activities of your group. Be aware that if you have an important event or deadline that falls after mid-November in the autumn, or after mid-April in the spring, you should not count on law student participation in that event unless you reach a special agreement.

On the other hand, special events earlier in the semester can be a great focusing mechanism. If you have the flexibility to do so, it can often work particularly well if you schedule a special event with members of your group or the public, set toward (but not absolutely at) the end of the semester. This event can then serve as “destination” and motivator for your student partner, helping to provide real deadlines and the energy boost needed to bring the project in on time.

Another thing you can do that will help the student with his or her time management is to develop a list of tasks that would be helpful for the project and that could serve as a kind of safety net in case other plans fall through. At least some of these back-up tasks should be ones that the law student can do on his or her own, without immediate supervision or participation by you or your group or its members. If you have this kind of safety net in place, then in cases where a planned meeting or event or deadline gets postponed or canceled, or in case your organization’s energy needs to be diverted to another project due to some unforeseen development, then the student can immediately fall back on the list you have developed, rather than having a precious week go by without any progress or learning related to the project having taken place.

4. Students will greatly benefit from a chance to learn about your issues up close

Law students come from all kinds of backgrounds and bring all kinds of experiences and insights with them, so it may be that you will find a student who already knows a lot about your kind of organization, your issues, and the people you work with. But in many cases, your issues and concerns will be something new for the student working with you. In that situation, you can make a big difference by making sure that the student has some opportunities to learn about your group and its work in a first-hand, vivid, educational way.

Helping them get this experience rather than simply sending them off on a solitary chore requires some extra thought (and perhaps more) from you as community partner. But giving students these opportunities should lead to a concrete pay-off for you as well, because a student who has had some direct experiences with your group, its issues, and its members is likely to do a better job for the organization.

From my side, I will try to help by telling my students that part of their assignment with their community partner is to listen and learn about the group's mission and its issues, and about the people it is trying to reach or serve. I usually ask students to report formally to me about this listening and learning. But the students will probably need help from you to make this work.

For instance, maybe you could arrange for them to attend a meeting, an action, or a workshop, and then debrief with someone afterwards. Maybe you could set up an opportunity for them to interview one of the elders or leaders in your organization, to hear their perspective on the issues. Maybe you have a relevant film or book to recommend. (For that matter, if you have print or audio-visual resources about your group or its core issues, you might want to share those resources directly with me before the semester starts. That way I can make them available to students who are trying to decide what project they want to work on.) In any case, I will be happy to consult with you if you like about what you might put together that would help law students get a feel for what motivates your work, who your members are, why anyone should care about this, and what kind of justice issues are behind your organization's current agenda.

5. Law students also need to know some mundane stuff about your organization

Less important than a student's really "getting it" about your mission and your issues, but still helpful to the student nonetheless, is some concrete idea about the nuts and bolts of your organization. Some law students have extensive experience with non-profits and community-based organizations, but many do not. They may not think to ask you about some information that could get them better ready to serve you well.

So it will be a help if you can share with them some basics, such as a copy of your mission statement, a description of how decisions get made in your organization, some idea of its budget and funding sources, etc. Since these are law students, it might be educational for them to see a copy of your incorporation and by-laws documents if you are incorporated, or your 501(c)(3) application to the IRS if you submitted one. Copies of old newsletters can tell a lot about an organization. Or

news clips. I am also trying to introduce students to the world of fund-raising for public-interest work, so excerpts from past grant proposals would be another interesting way for you to give them a window into your work.

I will be telling law students on my end that they should find out some basic information about your group, so you should anticipate some questions on these topics. But if you took the initiative to put together an information packet with some of these materials, it might be especially helpful.

* * * *

These words to the wise have now gone on a lot longer than I intended -- thank you for reading this far! I hope that a student of mine will be working with you, if not this next semester, then at some other point in the future, and I hope this background information helps you and the student make the most of your time together. In the meantime, I appreciate your willingness to consider working with someone from one of my classes, and I look forward to future collaborations.

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Course Documents

B. Questionnaire designed to help students construct an organizational profile

After sending students out to field placements a couple of times, I saw that some of them were failing to get a clear picture of the organizations with which they were working. In part, it seemed that students were unfamiliar with the world of non-profit groups or community agencies and simply didn't know what questions to ask, or what the variables might be.

Accordingly, I developed a questionnaire that is designed to help students find out relevant information about the community-based organizations they work with. It is also intended to stimulate thought and discussion about the need organizations have for legal knowledge, and the roles that lawyers could play in meeting that need.

To see the organizational profile questionnaire, [click here](#).

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C. Handouts aimed at explaining myself to my students

In Stephen Brookfield's wonderful book on reflective teaching (cited in the Resources section of this Teacher's Overview), he urges teachers to take much greater pains to explain themselves, their philosophies, and their decisions about course management to the students in their classes. He points out that most students respond positively to such efforts, are better able to make sense of what is happening in the class, and are more willing to invest genuine effort in course requirements. Inspired by his suggestions, I began to investigate the situation in my own classes, and I soon learned that few students were able to intuit the rationale or motive for many choices that I had assumed would be transparent. Posted here are several documents where I try to make my assumptions, expectations, and reasoning more accessible and transparent to my students.

a. A handout on time expectations

As I discuss elsewhere on this site, issues of time management are a major challenge for me. The document posted here is one way I have attempted to deal with my own troubles in this regard, and to articulate a reasonable and clear set of time expectations for students in my fieldwork courses. It sets out my standards about the amount of time students should plan to spend on the class each week, and announces that they will be required to turn in weekly time sheets. It goes on to explain why.

To see the handout on time expectations, [click here](#).

b. An introductory statement about "community legal education"

This document is an excerpt from the introductory course information sheet that I handed out one year in my course on Community Legal Education. In it, I try to situate the subject of community legal education within two related contexts: first, the world of lawyering for and with the disadvantaged, and second, the world of adult basic education. You will see that I also try to warn students in this handout about the disorderly and unpredictable nature of community fieldwork.

To see the excerpt on community legal education, [click here](#).

c. A note for students about some of my underlying assumptions

In this document, I tried to articulate some of the assumptions that I believed were motivating my choices in a class on Community Legal Education. I thought students had a right to know these things, and I also hoped that if we got used to unearthing and considering normally unspoken assumptions, it might help us pursue critical thinking in other aspects of the course as well. The document then goes on to lay out a set of contrasting assumptions that are in some conflict with my own. I hoped by offering these to suggest that conflict and contestation would be welcome in the class.

Inviting disagreement does not come easily for me. I enjoy learning environments where there is a lot of harmony and empathy going on. This preference of mine is not all bad: certainly some wonderful learning can take place in supportive circles. But I also know that my repertoire of learning modes, and that of my students, needs to include the ability to welcome and creatively embrace moments of conflict. I am still working on this, but sometimes it seems that I can sabotage my own best intentions. For instance, I suspect that my articulation of contrasting assumptions in this document may have included a subtext that did less to invite contestation than to show everyone I had already thought of every opposing view that anyone might want to venture. Therefore, they could just give up on disagreeing, right? Arghh.

To see the assumptions document, [click here](#).

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D. A guidance memo for students about their end-of-semester reports

Both the students and the teacher need some kind of vehicle in a fieldwork class that will memorialize the student's project and provide a place for reflection and assessment. In my classes that vehicle usually comes in the form of a Final Report. Given the wide range of projects, divergent modes of documentation, and special issues associated with group work, the guidelines need to be highly adaptable by each individual or team. At the same time, in the midst of so much flexibility and variation, law students are often hungry for structure. The document posted here shows the approach I took one semester in an effort to give students some additional guidance. In it I set out which parts of the report were to be completed individually and which parts could be done collaboratively, I gave students some ideas about what I meant by "reflection" (since I have learned that the term "reflection" is often received by students as a pretty opaque signal), and I encouraged them to document their project in various ways.

It is always a challenge for me to explain intelligibly what I am looking for in final reports, since projects and students can be so different one from another. One reason I have built this website is to find good ways for law students to learn from other students about interesting ways they might represent their work and reflect upon it.

To see the guidance memo, [click here](#).

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E. Forms for eliciting feedback about community placements

These documents are examples of letters and evaluation forms that I have used in past years to solicit written information from community partners about their experiences working on a project with a law student, and from law students about their community partner. At least when the system works as I have intended it, at the beginning of the semester, both the students and their partners receive a copy of these forms, together with a cover letter from me explaining that they will be used at the end of the semester. The idea is that no one should be taken by surprise by the evaluation. Perhaps more important, the form itself suggests some things about the kinds of behaviors we hope to see from students and their collaborators.

Having said all that, I should also note that many community partners (and probably students as well) are too busy to spend a lot of time unnecessarily perusing blank forms. Certainly at the end of the semester I do not expect either of them to have retained the form. Instead I hand out to students, and mail out to community partners, a second copy of their respective forms, together with a request that they now complete it.

A second observation is that written forms of this kind seldom provide what a researcher would think of as high quality information. Most collaborators and students alike are polite and relatively conflict averse; they often want to avoid burning bridges; they are usually pressed for time; the forms are pretty dry. All these factors add up to a strong likelihood that the little paper form will contain not that much helpful information. Teachers and students should look for more meaningful ways of getting helpful feedback whenever possible, including face-to-face interactions and focus groups if appropriate. One step I take when I can is to call the community collaborator after I have received the written form, and follow it up with a phone conversation. Of course, with my students, I can follow up in class or in individual meetings.

I have also discovered that if we conduct some in-class mini-evaluations of different aspects of the course as the semester goes forward, these evaluations can give students some good ideas about ways they might want to elicit evaluative comments from their own collaborators.

At any rate, to see these imperfect instruments:

[click here for the community partner form](#),

[and here for the law student form](#).

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Community Development: Implications of Welfare Reform Potential Field Work Sites/Opportunities

As you know, field work will be an important part of your work in this course. Please refer to other course documents for how the field requirement fits into your other responsibilities and for how it will be assessed. The purpose of this document is to give you some concrete ideas about specific opportunities we know about that we believe would be appropriate collaborations. In some instances, the groups have already been contacted and exploratory conversations have begun. In other cases, you would be starting pretty much at the beginning of defining the project. In any event, the community partner group will have final say, of course, as to whether a particular student or particular project will work out for this spring.

All of you should begin thinking and working right away to choose a field placement and get started with your projects. Year after year students say that they wish they had started field projects sooner. It is very common to run into delays and small problems that are not at all insurmountable, but that take precious time to work out. If you try to load all your work into the later parts of the semester, you may hit frustrating roadblocks that reduce the quality of your project only because time has run out. Anyhow, here are the possibilities we have identified.

Consolidated Needs Standard

Families First employs a "consolidated needs standard" to determine when participants' income is in excess of what is allowed for them to continue to receive various program benefits. The Tennessee Industrial Renewal Network is a local coalition of labor unions, church organizations, and community groups concerned about the impact of de-industrialization and economic restructuring on blue-collar and low-income people and communities. It is interested in developing an analysis of this consolidated needs standard and of other "standards" that affect low-income people, such as the minimum wage and the official definition of the poverty level. Are these varying standards reasonable measures of poverty? Of a living wage? Of a level at which a family should be cut off of assistance? How might one go about defining such a level for a particular community like Knoxville? How does all this relate to the realities of welfare reform? Students interested in designing a program around this issue, and documenting experiences of Families First participants who begin work and exceed the consolidated needs standard, should contact TIRN.

Hispanic Ministry of Knoxville Catholic Diocese

The local Hispanic Ministry, which serves the growing Latino and Latina population of East Tennessee, has expressed interest in working with a class member to look at the special impacts of welfare reform on immigrant groups. The new federal welfare law declared that non-citizens are ineligible to receive welfare benefits, even those who are "legal permanent residents" of the U.S. One member of the class is already interested in pursuing this project. Specifics have not yet been worked out, but one likely activity will be preparing educational materials, in both English and Spanish, to explain the change in the law for legal immigrants. Speak with Lisa Lewis if you are interested in joining her on this project.

Hospitality Food Pantry

This East Knoxville food pantry is part of a network of Hospitality Pantries around the city. They are unique in Knoxville in their philosophy, which is to let people decide for themselves whether they need food, rather than instituting screening or rationing devices. The organization emerged from the vision of one particular person, and is presently working to make a transition toward a democratic governance structure at the level of the local pantries. This organization already does some documentation of its own. Workers have been tracking the number of families served since the pantry opened several years ago, and have found dramatic ways of displaying the increase in demand. They say that they are already seeing the effects of welfare cuts and Families First requirements. HFP does not have a particular project in mind, but is open to exploring options for a project that would develop quantitative and qualitative documentation about welfare and hunger. People working with this group would need to be ready to watch, listen and learn for a while before trying to come up with a concrete plan.

Knoxville Home Child Care Association

This group of local women has a dual goal: first, promoting small business development as a way of creating jobs and income for owners and employees, and second, providing low-income working mothers with a much-needed service. The Department of Human Services is attempting to better identify the kinds of child care needs that exist in different areas of the city. A study of this question might be of great benefit to the Home Child Care Association if it confirms what they believe to be the case, that there is a real need in many areas of the city for additional affordable home-based day care. This group can be contacted through the Knoxville Legal Aid Society. (KLAS represents this group, but only in matters that do not require legislative or administrative advocacy, due to the new restrictions that have recently been imposed by Congress on programs that receive funds from the Legal Services Corporation.)

Lay Advocacy Projects

Two different Legal Services offices in our area are working to develop training for "Lay Advocates" who can accompany Families First participants to the meetings where they are to agree to the "Personal Responsibility Plan" that will be a central feature of the new welfare program. The idea is to make sure that participants are aware of their rights, know good questions to ask, are fully informed about implications of their choices, etc. Knoxville Legal Aid Society has already scheduled a training session for Feb. 27, and Rural Legal Services of Tennessee is also moving forward. Both believe that there might be productive roles for students from this class in planning these training events and following up on the lay advocates program. A local group called Solutions to Issues of Concern to Knoxvilleans that does advocacy and organizing around issues relevant for low-income people in inner-city Knoxville will also be working on this training event.

Microloan Peer Group on Transportation

The Knoxville Community Microloan Program, affiliated with Inner City Knoxville Community Investment Corporation, has a number of "peer lending groups" made up of micro-entrepreneurs who work together in developing their businesses, accessing credit, and managing their business debts. One of these groups is focused on transportation, and its members may be able to play a role in supplementing Knoxville's woefully inadequate bus system in ways that could benefit Families First

participants who are seeking to make the transition to waged labor. Contact Knoxville Community Microloan or Knoxville Legal Aid Society.

Neighborhood Surveys Project

The Partnership for Neighborhood Improvement (PNI) is an umbrella group involving local banks, city officials, and inner city community leaders in efforts to revitalize some of Knoxville's low-income communities. The Center for Neighborhood Development (CND) is a part of PNI that is devoted to strengthening the capacity of local organizations to work effectively on community development efforts. Several neighborhood groups that are part of the CND network currently have VISTA workers assigned to them, and a number of these VISTAs are carrying out neighborhood surveys and needs assessments. This process is likely to encounter effects of Families First, and two of the VISTAs have expressed an interest in working with members of the class to explore ways that their outreach work and needs assessment process might relate to our interest in tracking and evaluating good and bad effects of Families First.

Teen Mother Program

A social worker at John Tarleton Homes is working with teen mothers, many of whom have some present or potential relationship to Families First, and she is open to having students from this class involved in that work. The program includes classes in parenting and other life skills. Helping these low-income teen mothers understand some of the programs that might be available to them -- including Families First -- would be a good addition to their life skills class. The young women in those classes should also be able to share with us some of the needs, perspectives and aspirations of young mothers who are some of the most important intended beneficiaries of welfare assistance, as well as some of the barriers they face to economic independence.

* * *

In addition to the opportunities set out above, all of which we believe would be suitable for collaborative work, there are almost certainly others that could also provide a fruitful relationship for a field project. If you want to suggest something, feel free to do so.

Don't forget that each of you is also to find one individual person who is a past or present welfare recipient and who is willing to grant you an interview to share something of her experiences and views. A number of people in the community have expressed willingness to help you identify Families First recipients who might be good people to interview in this regard. If you want contacts for this purpose, let us know.

Community Development – The New Immigration in Tennessee Possible Projects

Set out below are some ideas about possible projects that we might undertake this semester. It is not an exhaustive list, but is intended to be food for thought. The basic idea is that we hope to conduct investigations that will help us better understand the new upsurge of Latino/a immigrants now beginning to settle in Tennessee. We will also be looking for opportunities to provide law-related education or other appropriate assistance to new immigrants in Tennessee or to the service provider networks that are also beginning to emerge in response to these demographic changes.

1. Spanish language capacity of basic services and public offices in Tennessee

Many observers have pointed out that Tennessee lacks even minimal Spanish language capacity in many of the most basic institutions that immigrants sometimes have no choice but to come in contact with. For instance, hospitals, schools, courts, prisons, driver's license stations, banks, retail stores, the public transportation system, insurance agencies, and more, often have no one on staff who can understand Spanish, no system for obtaining quick translation, and very little capacity for handling the unplanned encounter. One project that has been suggested for our class is to conduct an audit in one or more nearby counties to determine the existing state of language capacity in key agencies and institutions.

There might be future legal implications to such an audit. Title VI of the Civil Rights Act of 1964 bans discrimination on the basis of national origin by agencies or government entities that receive federal funding. This ban has been interpreted by the relevant administrative agencies to require that such organizations must provide information and services in languages other than English if there is a sufficient population of persons in the area who speak a given language. But for now, the suggestion has been that we should just try to determine what is in fact going on in our state with regard to these practices.

2. Access to banking services for Latino/a immigrants

Many observers have pointed out that Latino/a immigrants have an extremely low rate of utilization of bank services. In some cases, the lack of Spanish language capacity at many banks in this state and region is the reason for these low rates of banking. In other situations, immigrants may be unaware of the services a bank can provide and the advantages enjoyed by customers. For "undocumented immigrants" (those who are present in the U.S. without permission, and who are unable to obtain a social security card because they are not legally authorized to work here), the main barrier to banking is often the lack of the social security number that many banks request as a standard step in opening any kind of account.

In the meantime, immigrants pay a price for their low rates of bank utilization. Many of them carry large amounts of cash on their persons or hide it in their homes, rendering them vulnerable to theft at the hands of petty criminals or corrupt public officials. Most immigrants regularly send a significant portion of their pay checks home to their country of origin. Lacking a relationship with a bank means that they often pay unconscionably high rates to effectuate these transfers, and they often lose as well on unfavorable exchange rates.

One possibility for a project would be to find out if these patterns exist in Tennessee, and to put together an educational packet that could be shared with bank officers in the area as part of a longer-term strategy to reform banking practices here. If any of you have a background in banking, this might be a logical project for you, but anyone is welcome.

3. Problems with access to the driver's license for undocumented persons

The law in Tennessee was recently changed to require that people applying for a driver's license must now show a social security number. People who work with Latino/a immigrants around the state report that this is one of the hottest subjects on people's minds. It has blocked access to the driver's license for anyone who does not have a social security number.

Some people see this as only logical. After all, why should the state issue a license to someone who is not even supposed to be here? We will certainly discuss the policy implications of this state of affairs in class. For now, let me simply say that several service providers in the Latino/a community have asked us to research this new law, to determine the background to its passage, and to see if there may be some way to change it. They see it as an important civil rights and human rights question, and say that the current situation makes the highways unsafe and subjects immigrants to unwarranted fear, insecurity and abuse.

4. Access to health care for undocumented persons

Another group of immigrants rights advocates has asked us to look into the question of health care for undocumented persons. Can an undocumented person get help for a sick child from the public health department? From a hospital emergency room? Can he purchase health insurance on his employer's plan? Are there private clinics who will see pregnant women for prenatal care even if they do not have a social security card and cannot get insurance?

5. Access to public schools for undocumented children

The U.S. Supreme Court has held that undocumented children have a right to attend public schools through the 12th grade. Nevertheless, immigrants rights advocates say that many schools in Tennessee insist on requesting a social security card from parents of all children before they will enroll them. Is this true, or just an urban legend? What could be done about it if it is true? Even if the school lets the undocumented child register and attend, there are remaining questions we have been asked:

Could a school official turn in the parent to the INS once their status is brought to that official's attention?

What are the schools in Tennessee doing to integrate children with limited English skills into the system? Are there English acquisition classes for them? Are they held back? Do local schools have access to trained people who can help them learn what such children need, and what they may be going through? Do children have any enforceable rights with regard to all this?

6. Facts and figures on Tennessee population trends

As soon as you start talking with anyone about these issues, someone will start asking for numbers. All knowledgeable observers say that the only numbers we have from the census are hugely inaccurate, since so many immigrants either fall through the cracks or actively seek to avoid being counted due to fear about contact with government authorities. Nevertheless, anyone who wants to be an effective advocate on immigration issues needs to know about whatever numbers we do have. A foundational research task for the class will be finding out the latest census figures for Tennessee and figuring out some good ways to represent those figures for educational purposes.

7. Education about the criminal justice system

Church staff people and others who work with the local Latino/a immigrant community say they would like to understand a great deal more than they do about the rights of the criminally accused, as well as the rights of a person who is questioned by the police pursuant to a traffic stop, a search, or some similar situation.

It appears that we will have several opportunities to conduct educational sessions on this subject if there are people in the class who would like to put together the research and the materials. For instance, on this topic and most of the others mentioned here, the Catholic Hispanic Ministry would invite us to speak at the Fellowship Hour after their Hispanic Mass, and there are several teachers of English acquisition classes who would invite us to make presentations to their classes. We will need to find criminal defense specialists who will review our research and our educational materials, and perhaps come with us so that we will have someone on hand able to respond in an informal Q and A session.

I am quite interested in exploring theater as a way of conveying this kind of information for non-English-speaking audiences, so if that idea intrigues any of you, I would be pleased. But it will be up to the students who choose this topic how they would like to proceed.

8. Battered immigrant women

I am learning that immigrant women have their own special problems with battering. As in other abusive relationships, issues of domination and control are evident, but abusive husbands of battered immigrants have extra tools of isolation and control. In many situations, an abusive

husband of an immigrant women – whether he himself is a U.S. citizen, a legal permanent resident, or an undocumented immigrant – will take advantage of special vulnerabilities of an immigrant spouse. For instance, he may confiscate her passport or other documentation, or he may try to prevent her from learning English. In cases where the husband is legally entitled to petition to have his wife’s status adjusted, he may refuse to do so.

In recognition of these problems, the U.S. Congress has enacted some special exceptions to normal immigration procedures in cases where an immigrant woman can show she is in an abusive relationship. Some advocates tell me that there is a need for community legal education about these matters, both among battered women’s advocates and within the immigrant community. If some of you are interested, this would be an opportunity for research and education. We can get plenty of advice and guidance from the very active network of immigrant battered women’s advocates that exists around the country. That network is interested in helping people in “new” jurisdictions like ours.

9. Special tax issues for immigrant wage-earners

Despite the angry talk we sometimes hear about immigrants not paying taxes, immigrant workers pay huge amounts of federal taxes, and often are not able to collect any benefits from having done so. Sometimes this is simply a product of their illegality, and there is little that can be done short of immigration reform. For instance, an immigrant worker who uses a false social security number to get a job in a factory, has taxes withheld from every pay check for social security. His parents in Mexico, however, draw nothing from our social security reserves, and neither will he as long as he is unable to adjust his status.

However, some immigrants lose out on benefits that they are entitled to, simply because they do not understand the law and their rights under it. There is a strong need for better bilingual materials available for immigrants themselves, and for people who advise them, to alert them to ways that tax law applies to immigrants. If we have anyone in the class who feels comfortable working on tax issues, this could be a great project.

10. Unpaid wage claims

One of the most distressing patterns reported around the country about the experiences of low-wage immigrants is the widespread failure to pay wages at all. Too many employers apparently conclude that immigrants, at least those who are undocumented, are in such a precarious position that they will choose not to protest even if they are outright cheated of their pay. An East Tennessee attorney who represents farm workers in the state has asked if someone in the class might be able to help him with research concerning whether or not the Tennessee Department of Labor has an obligation to pursue unpaid wage claims on behalf of immigrant workers who are here under the government’s special guest worker program for migrant farm workers. This should be a relatively straightforward and standard research assignment, but could deliver concrete help to a lawyer who would appreciate the support.

11. A website

Several people have suggested that a website would be a great way we could make some of the results of our work public, and might be an appropriate way to provide information to the newly emerging networks of immigrant-rights advocates in our state. I know nothing about the technical side of this myself, but I hear rumors that some of you in the class may have the technical expertise for this.

12. Spanish-language radio stations in Tennessee

Others have said that new radio stations are usually one of the first ways that immigrant communities establish communication networks for themselves. This might be an immigrant-friendly outlet for educational materials we develop. We do not yet have such a station in Knoxville, but I understand that stations have begun to spring up elsewhere. One task might be to create a list of these stations in our state.

13. “Prose” materials on topics relevant to low-wage Latino/a immigrants

Many legal services offices make a point of producing and/or distributing educational materials on a range of legal issues that tend to come up regularly for low-income people. For instance, if you were to walk into the offices of the Knoxville Legal Aid Society, you would likely be able to find brochures on landlord-tenant law, domestic violence, bankruptcy, garnishment, consumer fraud, divorce, etc. At this juncture it appears that there are very few such materials generally available in Spanish. Further, immigrants have a whole additional range of legal issues that are particular to their situation, and few places in Tennessee yet have materials in any language on this special range of issues. One project could be gathering Spanish language materials of this kind, flagging other publications that should be translated into Spanish (especially Tennessee-specific materials), and then working to get these things into the hands of appropriate people.

14. Outreach to the Knoxville bar

One need that many people have mentioned is simply more lawyers willing and able to represent low-income immigrants for free or at a reduced rate. The problems are steep: lack of Spanish language capacity by most lawyers and law firms, unfamiliarity with the ways that immigration status can affect other rights and responsibilities, lack of knowledge about immigration law proper, lack of information about immigrants, their history or their culture. There has been a suggestion that we might conduct a briefing for interested members of the bar toward the end of the semester, in hopes of interesting more local lawyers in volunteering pro bono time to provide direct service to individual immigrants in need. What do you think?

Community Development

Possibilities for East Tennessee Social Justice Projects Spring 2002

As you know, a major part of your work in this course will be a field project that you carry out in conjunction with a group in the community. To be appropriate for this course a field project

- must take you beyond the walls of the law school and into contact with people or groups that are dealing with some concrete situation they see as a significant instance of injustice; and
- must be a project that you yourself feel passionately about.

Some of you may come with your own ideas of what you would like to do. If so, let me know as soon as possible so we can talk over your ideas and see if they are a good match for the course. But my guess is that many of you will want to hear about possibilities in the community that you could consider or investigate. So here is a list of possibilities that have come to my attention over the past several weeks or months. The list is designed to convince you that I am serious about the wide variety of projects that can qualify as appropriate fieldwork in this class and to encourage you to think creatively and “outside the box.”

In any event, please feel free to propose your own ideas, and to suggest other kinds of social justice issues and approaches. If you have questions, stop by my office for a chat. The only requirement is to do it soon. The semester will prove frustratingly short, I promise you. Here are the possibilities I want to bring to your attention:

Help to gather material for a play on workplace rights and wrongs

Collaborate with a visiting theater director/actor/producer who will be working with Carpetbag Theater, a local community-based African-American theater company. Her goal is to interview workers involved with Sincere Seven, a workers’ rights group founded by seven African American workers who were fired for trying to organize a union. The idea is to use the interviews to create a play made up of excerpts from the different narratives. Most of the interviews will focus on problems and rights in the workplace, and the project could use someone who could provide legal background briefings on labor and employment law while also helping to do the interviews and learning about how things look from the workers’ standpoint.

Develop Know-Your-Rights educational projects with people who usually lack access to good information about their rights and responsibilities.

There are a number of venues around town where this kind of work will be possible. Specific groups and settings where projects would be welcome this semester include immigrants learning English, mothers on public assistance working toward their GEDs, hourly workers at the university who are trying to organize a union, at-risk high school youth who are involved in an arts group and want to know more about the law, and organizers of a new immigrants' rights group that plans to do community trainings with new immigrants in East Tennessee.

Learn about law and lawyering on behalf of protesters who engage in civil disobedience

The Oak Ridge Environmental Peace Alliance works in East Tennessee to protest continued work on nuclear weapons that happens here at the federal facilities in Oak Ridge. Over the years, several local lawyers have provided pro bono legal representation to OREPA activists charged with trespass growing out of the group's annual non-violent civil disobedience on the anniversary of the bombings of Hiroshima and Nagasaki. This semester there are hearings scheduled in relation to past OREPA protests. The pro bono lawyers are willing to have law students provide clerking and other support for these cases. Law students could also elect to serve as legal observers at other civil disobedience actions OREPA plans for later in the spring. Alternatively, OREPA has expressed an interest in receiving briefings on the application of international law (including nuclear non-proliferation treaties) to the question of nuclear weapons production at Oak Ridge.

Work toward local legislation for a living wage

The Knoxville Living Wage Campaign would like help in drafting revisions to a living wage ordinance that they have introduced -- thus far unsuccessfully -- in the Knoxville City Council. They have also requested legal research and fact investigation concerning the city's current contracting practices and the rules governing them.

Participate in outreach to local farm workers

Southern Migrant Legal Services is a satellite project of a venerable, federally funded, farm-worker legal services organization, Texas Rural Legal Aid. SMLS staff attorneys will represent farm workers on employment-related matters in six states in the Southeast. The group just opened an office in Nashville and they have offered to supervise a law student who wants to participate in community outreach to farm worker communities in East Tennessee this spring. The goal is to inform eligible farm workers of SMLS services and to identify cases that might have an impact if litigated. (Spanish language facility would be required for this project.)

Help low-income home-based child-care providers to improve their situation

A grassroots action group called Solutions is engaged in a campaign to improve conditions for home-based child-care providers in low-income, inner-city Knoxville communities. The recent

transformation of the welfare system has produced a new occupational niche for women who can care for the children of welfare recipients attempting to make the transition from welfare to work. Many of the caregivers are past recipients themselves, and they are providing an important service. However, compensation rates are low, and many of the regulations are difficult for low-income providers to meet. Solutions is helping to bring these problems to light and demand improved approaches. They need research about the rules and regulations, and help identifying possible handles for reform.

Help to create local human rights campaigns in support of global labor rights

The Tennessee Industrial Renewal Network is a local labor-community coalition active on international labor rights and free/fair trade issues. They want to develop a mechanism through which local activists, including rank-and-file union members, can find out about abuses of labor rights in other countries, and can then take part in “Amnesty-International-style” letter-writing or fax-sending campaigns to support these workers. They also want advice about ways that U.S. trade law and labor law might be involved in these situations, so that their letter-writing can target domestic as well as international decision-makers.

Educate and persuade the public about landmark affirmative action litigation now pending

Landmark litigation on affirmative action in higher education is now working its way through the court system. Controversy already exists at the law school about this case, with various groups and individuals taking various positions. The Black Law Student Association, for instance, is in strong support of affirmative action, while the Federalist Society is strongly opposed. National groups are also active on both sides of this issue.

BLSA leaders at the law school are aware of my own views in support of affirmative action and of my own involvement in advocacy efforts related to the issue. They have expressed an interest in having one or more law students from this class work with them to develop presentations about the pending litigation. Their aim is to educate and persuade law students, undergraduates, and members of the community about this important and controversial matter.

NOTE: Since I have mentioned my own engagement with affirmative action, I want to make especially clear here that my own activities on this matter do not constitute any sort of limit on what students in this class may or should take on. The Federalist Society and other opponents of affirmative action would quite likely be as enthusiastic about help with education and persuasion as BLSA is. Any student who would like to explore that option should certainly feel free to do so. Please come and talk with me if you have any questions about this or about my own involvements.

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C. Living in Time

Time is truly one of the most difficult things I face in this kind of teaching. Desperately needing more time, trying to manage time, finding it, losing it, using it, measuring it, feeling pressed about it – all of these are problems for me. They are also problems for my students, and for our community partners.

In some semesters I have opened my weekly class discussion with something called “check-in.” This is a process my students and I learned one year from Linda Parris-Bailey, of Knoxville's Carpetbag Theater. It involves going around the circle, with each person having a brief turn. The purpose is for all those who are physically present in the space to bring themselves into that space mentally and emotionally as well, to move into each others' presence so that focused and attentive work can be accomplished. This purpose requires tuning in to each other and setting aside, at least for the space of the class (or theater rehearsal), the concerns and distractions that each participant has unavoidably brought to the moment.

With a check-in, the aim is to put aside these concerns and distractions, not by trying to ignore them, but by speaking them. One person may report the traffic jam he just battled to get to class. Another may tell about a bad cold, an anticipated weekend, plans for a wedding, or a fearful mid-term. Another may say she is hungry. Another may be worried about the war.

More than any other theme, however, with law students the dominant subject that has emerged from check-in is time and its awful weight. It seems that time is felt by many law students as a negative, even harrowing, factor. Time is something that must be battled, endured, pushed uphill, kept barely ahead of, survived, or frantically scratched at.

I am not totally naive. I realize that students may find themselves drawn to this theme during a check-in because it can be a way of indirectly lobbying me to lighten up on my own demands for pieces their precious time. But that dynamic cannot account for the power and recurrence of the theme in check-in moments of my courses. *Most* law students seem to feel badly pressed for time at just about any moment you ask them.

And so do I. Perhaps my own version of this malady is particularly acute, and no doubt the question of what to do about it is in part a personal one whose answer I must seek for myself. But I think at this moment in our national culture the relentless pressure of time is at least in part a shared phenomenon of professional life in general and in the lives of lawyers in particular.

In fact, sometimes I worry that among all the other often questionable ways we are training our students for the profession, we are using law school to “soften them up” for the crazy time demands of the 21st century legal workplace. Certainly in my own case, I remember being astonished at the time required to be a conscientious law student. I also recall my husband's dismay when my litigation practice turned out to be no better. (He and I had somehow believed that law school was a sprint, after which life would return to a more “normal” and bearable pace.) He and I were surprised again when my life as a law teacher and scholar was more of the same.

I don't know what to do about this. My impulses are thoroughly contradictory. I don't want my own classroom to feel haunted and harried by the hounds of time. I want students to have a chance to breathe and think more deeply. I encourage them to do aimless hanging out with their community partners. I long for a different rhythm.

At the same time, I am jealous of the students' every moment. I know that most of them are experiencing fierce competing pressure from every other part of their academic and work lives, and I certainly don't want to end up on the losing end of that game. If my own demands and requirements do not press back, my students' work for their partner groups and their preparation for class are likely to suffer – let alone their quiet moments for reflection in their journals, or their independent and self-guided research into the legal and social questions they are encountering.

Signs of pressure on students' time are everywhere. Even students who are genuinely interested in the material skimp on readings. In late afternoon classes, some students' eyelids regularly droop. Finding a way for student teams even to meet with each other in or near the law school is a huge problem, given their chopped-up course schedules and their work obligations (the latter nearly universal for 2Ls and 3Ls). Finding time for even modest immersion experiences in the life of the community is an even bigger challenge. Of course, students with significant family responsibilities are juggling even faster and are faced with even stricter limitations.

This rat race atmosphere has obvious quantitative implications. There are simply not enough hours in the day, not enough “white spaces” in anyone's weekly calendar, to do what needs to be done, and especially so if what needs doing requires coordination with others. It also has qualitative implications, because it is hard for students to do certain kinds of thinking or research when the only slots available are little snippets of time sandwiched between other, highly-structured and highly-directed obligations.

An immediate step I have taken is to force myself to be more explicit about my time expectations for the course. I now try to convey these expectations in a way that sets clearer requirements for my students and imposes clearer restraints on my own expansionist dreams. It also serves to better inform and educate community partners. For a sample handout on this subject, [click here](#).

This step, in which I articulate express guidelines on time expectations, has been a good one. It makes sense. It provides clarity and structure. The truth is, however, it only addresses half the problem. It represents the clamping down side. The bigger challenge, I believe, is figuring out how to manage the letting go side. I was startled to read the description below about how one teacher (granted, not a law teacher) approaches questions of time, precisely because it seemed the opposite of clamping down:

I often start my classes by saying “There is no rush. There is nowhere to get to. Today, during this workshop, we have plenty of time.” Then I often hear sighs exhaled through the room and watch shoulders drop a centimeter or two. We tend to brace against time, trying to pack so much into it, that simply hearing that there is

enough for right now lets us begin to relax.

Most people see time as moving in a direction. In front is the future; behind is the past. This view of time makes our movement linear and symmetrical. In class I suggest that time comes at us from every direction, from the entire sphere around us, and disappears into the past inside us. We are receptacles of time, we ingest time.

Martin Keogh, "The Time of Your Life," in *Yes! A Journal of Positive Futures*, Summer 2002, pp. 25-27.

I am still wondering what I could do in my classes – and in my life -- that would allow me and my students to take the view that we have plenty of time. All the time in the world.

I am also exploring what I might do beyond my classes. Although it does not directly help me address the time problem in my courses, I have started putting special effort into helping law students plan what they want to do with their two precious summers. Summer experiences can allow interested law students to experience time in communities, and to spend time with community lawyers, in ways that are less chopped up and less compartmentalized. These settings can better provide the immersion in community and the inversion of role that I believe are important preparatory lessons for social justice lawyering. Constructing learning environments that can provide this immersion and inversion is a complex and uncertain process, but unchopped time is certainly one of the indispensable ingredients for accomplishing that task.

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D. On valuing and examining commitments

Because questions of neutrality and bias are endemic to teaching, I want to say at least a few words about those problems here, though I will not pretend to a full discussion. Two main points orient my own thinking and attempted practice in this regard:

a. No teaching can be purely objective or value free, although aspirations to -- and apparent belief in the possibility of -- objective teaching continue to be voiced in the literature and at the water cooler. I am convinced that even the most earnest attempt to teach without communicating values is doomed -- at best to instructive failure, and at worst to deception of self and others. Perhaps most worrisome is the fact that claims to objectivity, and rules that purport to require it, function most often to reinforce existing systems of privilege by masking them as neutrality.

b. On the other hand, even though no teaching can be objective or value free, good teaching should open up lines of inquiry, not shut them down, and teachers should strive to put wide information and multiple perspectives into the hands of students and should encourage students to make their own well-informed decisions. The impossibility of a viewpoint unaffected by one's own position does not mean that "anything goes," or that unchecked subjectivity -- the teacher's or anyone else's -- should reign.

These two complementary and sometimes tension-filled insights translate into real dilemmas for teachers about how they should handle and communicate their own values and commitments in the context of their teaching. It is hard enough to verbally frame reasonable-sounding resolutions to these dilemmas. Needless to say, it is much harder to bring good answers to life in one's actual face-to-face teaching.

Below are a few attempts of my own to arrive at reasonable verbal resolutions -- or anyhow defensible verbal observations -- about these questions and dilemmas. I hope it is clear that I do not claim to have achieved what I want in my own classrooms. Humility is in order, and I have tried to make sure it is in evidence below.

The teaching relationship should be one of mutual respect and learning, and the frank exchange of ideas. Teachers should therefore avoid imposing -- whether consciously or unconsciously -- their own values on others. Likewise, they should avoid seeking or eliciting student performances that parrot or coddle the teachers' views.

Most students (like most people generally, including us teachers) need more practice at unearthing and examining unstated assumptions and values. This need is particularly great in relation to matters that appear at first encounter to have no questionable assumptions behind them, but seem rather to be grounded in self-evident truths or unassailable common sense. Good teaching will therefore include activities and environments that encourage critical thinking about assumptions, and good law teaching will specifically encourage this kind of critical thinking to extend to law, the legal system, legal ideologies, the profession, and legal education.

Students should be given fruitful and challenging opportunities to identify and question their own values as part of this general effort to see and think consciously about assumptions. Teachers should try to provide unsettling contrasts and enlarge the range of alternatives that students know about, so they can perceive and question their own existing assumptions in a better-informed and wiser way.

In all these endeavors, the teacher needs to recall that the ones who need to be doing the questioning, the ones who need to be constructing the answers, are of course the students themselves. Whatever lessons the students draw, whatever assumptions they reject, alter or embrace, will be built not only on the new experiences that come to them through the small window of one class, but also on their past experiences and convictions. The teacher should strive to make clear to the students, in word and deed and body language, that their moral autonomy and their authority over their own learning outcomes are recognized and respected.

A teacher who models habits of noting and questioning her own assumptions, and who invites challenge and conversation about them, is more likely to succeed at communicating the above assurances to students.

However, none of this is easy! It can be difficult for a teacher to share her own passions and convictions while also making real room for other voices -- not only for the expression of different ideas, but also for the silence and conceptual groping that may be required for students to find their own way.

If one of the challenges is how to avoid domination by the teacher, another is how to encourage mutually respectful interaction and well-distributed participation among the students. It is inescapable that course activities will be full of the power relationships that predominate in the larger society. Class members, teacher included, will therefore be burdened, fortified, and blinded in various ways by their respective social positions, and the teacher may have to do more than sit back and say "Play ball!" if she hopes to avoid dynamics that mostly mirror and reproduce existing patterns of privilege and power.

As one way of trying to navigate these challenging shoals, I have begun surfacing some of my own course-related assumptions more explicitly as my students and I begin the semester together. I have generally received positive feedback about doing so, for which I am grateful. But the truth is that I continue to struggle with how to make good on my invitation to free-wheeling dialogue. To see an example of one "assumptions notice" that I distributed in a fieldwork class, [click here](#).

Some helpful resources that touch on the questions discussed in this section are:

Stephen Brookfield, *Becoming a Critically Reflective Teacher*, San Francisco: Jossey-Bass (1995)(Brookfield is insistent on the need for transparency with students. He describes compellingly his own experiences in education classrooms.)

Orville Vernon Burton, "Teaching Philosophy Statement"

http://www.history.uiuc.edu/fac_dir/burton_dir/philos.htm

(This is an attempt by a venerated history teacher to examine and reveal some of his own assumptions and convictions. Burton is a Distinguished Teacher/Scholar at the University of Illinois and was a member of my cohort at the Carnegie Academy for the Scholarship of Teaching and Learning)

Myles Horton & Paulo Freire, *We Make the Road by Walking: Conversations on Education and Social Change*. Philadelphia: Temple University Press (1990)(Horton was one of the founders of the Highlander Folk School (now the Highlander Research & Education Center). Freire was an innovative literacy teacher in Brazil, and became perhaps the world's primary theoretician of "popular education." Both men spent lifetimes attempting to uncover and upset the deep biases they saw embedded in mainstream education.)

Patricia Meyer Spacks, ed., *Advocacy in the Classroom: Problems and Possibilities*. St. Martin's Press, New York (1996)(Spacks provides a range of views on this vexing subject.)

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A. Figuring out what one is really after (cont'd)

Nine Goals

In any event, I am striving to better articulate and critically examine my goals. Set out below is a current working list -- nine things I hope will happen for my students (and for our community partners) as a result of their work in the field.

1. Providing a concrete benefit to the community group. - At the conclusion of the project, the community partner group that collaborated with the student or students will have gained something concrete from the relationship that it can use to enhance its work and advance its mission.
2. Building a record of respect. -The community group and its participating members will have been treated with respect and care by the students who worked with them on the project, and the students will have behaved in a way that was both collaborative and professional during the course of the endeavor.
3. Encountering a serious injustice or social problem. - Each student will have had an opportunity to observe first hand, read about, and reflect productively upon a significant instance of injustice, or a difficult law-related social problem – an injustice or problem that the student personally cares about, and one that is a matter of shared concern in contemporary U.S. society.
4. Taking action with others. - Beyond gaining new understanding about the injustice or problem that was the focus of the fieldwork, the student also will have had a chance to participate in a collaborative effort with others -- whether modest or ambitious -- to take some real action to address the problem, through law or otherwise.
5. Making and expressing evidence-based, values-grounded choices. - The student will have expressed to others what he or she learned about the injustice or social problem in a way that demonstrates as many of the following as possible:
 - (a) the research facility to find and assess relevant evidence bearing on the problem,
 - (b) the critical skill to identify different values and perspectives that suggest competing solutions to the problem in light of the relevant evidence,
 - (c) the moral capacity and maturity to make the student's own choice – at least provisionally – among those different values and competing solutions, and
 - (d) the expressive ability to communicate all of the above in ways that are enlightening and memorable for an intended audience.
6. Appreciating the role of grassroots organizing and advocacy. - The student will have gained an appreciation for the role played by grassroots organizing, education, and advocacy in efforts to achieve a more just society, and also will have come to see how difficult it can be for under-resourced groups to carry on this kind of bottom-up, democratic activity. (For more on living within the tension between these two lessons, [click here](#) .)
7. Seeking future opportunities for work with the under-represented. - Students will come away from the fieldwork experience more highly motivated to put their legal knowledge to work with organized groups who are tackling legal and social problems in disadvantaged communities.
8. Seeing the specific potential of community lawyering. - Students will have experienced directly and concretely that law-trained people with the capacity to work collaboratively with community-based groups can make valuable contributions to grassroots efforts to address injustice, and at least some of them will have developed some practical ideas about putting their own resources to work in such efforts in the future – despite the scarcity of resources readily available for the support of such lawyering.
9. Responding more powerfully to injustice. - Students will be better able to respond in a powerful and personally integrated way to future situations they perceive as unjust.

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project images: Austin East



In Fall 2003, five law students worked with one English class at Austin East. The students at AE were interested in the problem of child abuse, and how it is treated in the justice system. They developed the plot line and characters for a trial in which a father was accused of beating his child.

Here you see (from left to right), Zaccheus Ligon, Latonya Rogers, Brandon Greenlee, Victoria Bell, Mike Brezina (3L), and Keisha Perry (3L).

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project story: Austin East

Law Student Alums of the Ongoing Austin-East/UT College of Law Partnership

Fall 2002

Delton Chen
Doricia Crawford
Tiffany Deaderick
Twila Harris

Stephanie Johnson
Javiere Norris
Shelton Starks
Jacqui Wilson

Fall 2003

Mike Brezina
Carrie Beth McDonald Catron
LeJorian Stewart

Hannah Kim
Keisha Perry

Spring 2003

Shawn Crenshaw
Kristi Gunn
Casandra Henley
Jessica Hogan
Regenea Hurte
Stephanie Johnson
Kimberly Jones
Hannah Kim

Carrie Beth McDonald
Evelyn Njuguna
Keisha Perry
Alex Solomon
Shelton Starks
Heather Stewart
LeJorian Stewart
Matthew Trail

Spring 2004

Allison Bussell
Allyson Bustamonte
Erica Cason
Luke Hunt
Jennifer Moore

Charletté Montgomery
Maureen Simmons
Dan Smithwick
Reagan Taylor
Aaron Webb

Fall 2004

Leland Abraham
Robyn Williams

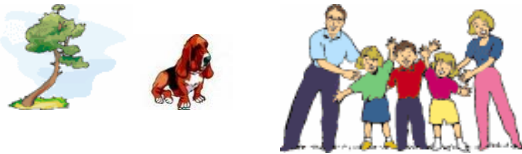
[View photos.](#)

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DO NOT LET YOUR DESIRE FOR THIS



HAVE THIS END RESULT



THE RISKS OF LEASING A HOME WITH AN OPTION TO PURCHASE

Information you need to know to protect yourself when you buy a home by a lease-purchase agreement.

Q: What is a lease-purchase agreement?

A: It is an alternative to purchasing home where the home is leased to a household that may not be able to qualify for a mortgage. A right to purchase the home may be exercised after a certain amount time. The lease-purchase may lock in a sales price and preserve the property until you obtain a mortgage. The Buyer can receive credit towards the purchase price for the rentals you pay to the Seller. If the Buyer decides not to purchase the property, he/she can walk away without exercising the option to purchase.

DISADVANTAGES

The disadvantages of a lease-purchase are the ways in which it is different from a typical purchase.

1. FORFEITURE OF PAYMENTS

The Buyer forfeits everything paid to the Seller if the Seller cancels the lease due to things such as late payments and canceled insurance. The Buyer will also forfeit all payments that have been made if he/she does not complete the purchase.

2. CURRENT MORTGAGE MAY PROHIBIT SUCH A TRANSACTION

If there is an existing mortgage on the property, the current mortgage may prohibit

the owner from entering into a lease-purchase agreement. The lender may have the right to demand the entire amount of the loan if the owner sells or enters into a long-term lease. Your rights may be cut off by the lender unless you or the seller has the ability to immediately pay off the underlying loan

3. THE UNIFORM LANDLORD TENANT ACT DOES NOT APPLY

Even though the first part of a lease-purchase is a lease, these agreements are not covered by the protections of the Uniform Residential Landlord Tenant Act.

4. NO PROTECTION FROM ACTS OF SELLER

a. Judgments Against Seller

The seller may not be able to deliver a clear title when the right to purchase is exercised. Judgments obtained against the seller may attach to the property if a notice of option right is not recorded. If an option is recorded, however, the lender may elect to enforce the due on sale clause and demand immediate payment of the note. Unless the buyer or the seller can pay off the underlying mortgage loan balance, all rights may be cut off by the lender.

b. Bankruptcy of the Seller

If the seller files bankruptcy, your rights may end. Even if you have paid on the lease-purchase for several years, you may find yourself with no rights and no legal recourse against the seller.

c. Death of Seller

If the Seller dies before Buyer obtains legal title, the Buyer may not be able to get clear title unless the Seller's estate is probated. If estate has little or no money there may little incentive to probate the estate.

d. Unscrupulous Seller

An unscrupulous Seller may transfer title to another Buyer or borrow money against the house creating an additional mortgage. Since a lease-purchase is typically not recorded, another buyer would have no notice of your property interest. The new buyer may take title to the property free and clear, cutting off the original Buyer's rights. The only way for Buyers to protect themselves against claims against their title is to record the lease purchase agreement at the courthouse.

Sellers usually do not want Buyers to record lease-purchase agreements, because recording may trigger a due-on-sale clause. Recording a lease-purchase agreement may also put a cloud on the title of the Seller, limiting what they can do with the property

5. HOMEOWNERS INSURANCE POLICY

The Seller usually requires the Buyer to pay for insurance and taxes on the property. If the Seller carries a standard homeowner's insurance policy, the lease-purchase agreement may terminate the coverage of the policy.

If the policy is changed to permit a lease, the insurance company will send a new copy of the insurance policy to the lender, potentially violating the due-on-sale clause. If the policy

is not changed, the Buyer and Seller run the risks that there is not a valid insurance policy covering the property and that the mortgage will be violated since there is not a valid insurance policy on the property.

If something were to happen to the property, and the property is insured properly, the Seller will collect the insurance proceeds. The amount the Buyer pays the Seller for the house will not be reduced.

6. IMPROVEMENTS MADE BECOME THE PROPERTY OF THE SELLER

Until the Buyer pays for the property in full, any improvements to the property (e.g. new kitchen cabinets) by the Buyer will be the Seller's property. The Seller does not have to reimburse the Buyer for costs associated with improvements even if the Seller evicts the Buyer.

7. BUYER CAN NOT GET AN EQUITY LOAN UNTIL THE OPTION TO PURCHASE IS EXERCISED

3. Buyers should have a professional home inspector inspect the property if the agreement states that the property is in "As Is" condition

4. Obtain title insurance. The title company can insure that there are no existing judgments or liens against the property when the lease-purchase is entered into. It will not protect the Buyer against any judgments filed against the Seller after the date the lease-purchase is entered into.

5. Record a Memorandum of Option. This gives notice that an option to purchase the property exists and may protect the buyer against judgments filed against the Seller after the date the lease-purchase is entered into. *Warning: the recording of a Memorandum of Option may trigger a due on sale clause.*

TERMINOLOGY

WAYS TO PROTECT YOURSELF

1. Examine the options available to you before you decide to enter into any type of agreement.

2. Have an attorney review your agreement.

THE LEASE-PURCHASE AGREEMENT

Information buyers need to know to protect themselves before entering into a lease-purchase agreement

DO NOT LET A BUYER'S DESIRE FOR HAVING A NICE HOME FOR THEIR FAMILY



END UP LIKE THIS



Buying a home is part of the American Dream for many people. The purchase of a home is the largest purchase most people will make in their lifetime. For that reason alone, it is very important for prospective buyers to examine all of the possible options available to them. Many prospective homebuyers are eager to fulfill this part of the American Dream and may be tempted to take the first 'good deal' that comes their way. The housing market is full of 'good deals' that can turn out to be traps for the unwary. It is important for prospective homebuyers to examine all options so their new home doesn't turn out to be more - or less - than they originally bargained for.

WHY DO LEASE-PURCHASE AGREEMENTS EXIST?

Without an adequate and reasonably secure income stream, excellent credit, and a large down payment, it is hard to qualify for a home loan from a conventional lender. Qualifying for a loan is even harder, sometimes impossible, without a social security number. While there are some legitimate alternatives for homebuyers who cannot qualify for a conventional loan, these same options can sometimes lead to a less than desirable result. For some, unfortunately, these non-conventional financing tools may be the only options available. Some dishonest sellers may pretend to sell houses when, in reality, they are renting them. The sellers may set up the sale in such a way that it is easy for the buyer to lose both the house and the down payment made on the house.

Sellers typically use one of three methods to accomplish their goal: (1) a **lease with an option to purchase**, (2) a **land installment contract** or (3) a **wrap-around mortgage**. In order to understand how these alternatives differ from a conventional mortgage, it is important to understand what a mortgage generally is and what some of the terms associated with a mortgage mean.

WHAT IS A MORTGAGE?

A **mortgage** is a loan to finance the purchase of a home. The entity that gives the money to purchase the home is a **lender**. To repay the debt, the borrower (that is, the person buying the house and

borrowing the money) makes monthly payments. When a borrower obtains a mortgage on a house, the buyer will sign a “**deed of trust**” to the lender. This means that the house will be used as security for the loan. The borrower owns the house, but the lender has special rights that protect its ability to be repaid.

WHAT MAKES UP A MORTGAGE AND WHAT ARE THE ASSOCIATED COSTS?

All mortgages feature both **principal** and **interest**. Principal and interest comprise the bulk of the borrower’s monthly payments, which reduces the debt over a fixed period of time. **Taxes** and **insurance** costs are other costs that are usually added into monthly mortgage payments.

Principal -- The principal is the amount of money borrowed to buy a home. The borrower usually gives the seller a down payment and then borrows the principal to make up the difference between the down payment and the total purchase price.

Interest -- Interest is what the lender charges the borrower for the use of the money borrowed to purchase the house. The lender may also charge an additional sum known as “points.” A point is one percent of the amount borrowed.

Taxes -- Property taxes are taxes that a community levies annually, based on a percentage of the value of the home and land. The tax is generally used to help finance the cost of running the community by helping to build schools, roads, and other needs. Lenders often collect money from borrowers to pay these, so they can be certain the property does not become burdened with back taxes.

Homeowners Insurance -- Lenders will not lend money to borrowers who lack insurance on their homes. The insurance protects both the borrower and lender from losses to the home and personal property by fire, theft, bad weather and other causes.

WHAT IS EQUITY?

Homebuyers who finance a purchase of a house with a conventional

mortgage gradually build up an interest called “**equity**” in their homes. Equity is what a house is worth minus any unpaid mortgages or other liens. It represents the part of the house that the buyer owns “free and clear” at any point in time, and it gradually increases over the life of a loan. Equity can also be used to obtain additional loans called equity loans. The equity in the home increases as a buyer pays down the principal balance on the mortgage, as improvements are made to the home, and as property values rise in the community. For example, where a buyer borrowed \$45,000 to purchase a house and has paid enough in payments to reduce the principle amount borrowed by \$15,000, if the house is worth \$70,000, the buyer has built \$40,000 of equity in the home ($\$70,000 - (\$45,000 - \$15,000) = \$40,000$).

WHAT IS A FORECLOSURE?

If a buyer does not pay the payments on a mortgage, the lender has the right to take back the house and sell it, because the house was used as security for the loan. The lender will use the money from the sale to pay back the loan. If the sale does not bring enough money to cover the loan, the buyer may be responsible to make up the difference. On the other hand, if any money from the sale is left over after the loan is paid back, the buyer will get what is left over. The amount left over from the sale after paying off the debt represents the buyer’s equity in the house. For example, if a house sold for \$45,000 and the buyer still owed \$25,000 to the lender, the buyer would receive \$20,000 from the sale: the sale price minus the remaining debt of \$25,000.

WHAT IS A DUE-ON-SALE CLAUSE?

Most mortgages contain a clause that limits a homeowner’s ability to keep the mortgage on the house if the buyer sells the house to someone else or enters into a contract to lease the house for a long period of time. This clause may give the lender the right to demand the entire amount of the loan at once if the homeowner sells the house or enters into a long-term lease. (Most lenders want to be able to insist on getting paid in full if the house changes hands or goes to a long-term lease, so they insert this clause.)

THE LEASE-PURCHASE AGREEMENT AS AN ALTERNATIVE TO A CONVENTIONAL MORTGAGE ARRANGEMENT

WHAT IS A LEASE-PURCHASE AGREEMENT?

The **lease with an option to purchase**, or **lease-purchase agreement**, is probably the most common home purchase alternative to a mortgage. If a buyer wants to buy a house but cannot qualify for a conventional loan, the seller may offer an alternative where the buyer will pay a down payment and **lease** (or, rent) the house for a given time until an alternate source of financing is found to purchase the house. The “option to purchase” is the right the buyer has under the agreement to purchase the home at or before the given time. The seller may expect to be the one to provide the mortgage in the future, or the seller may require the buyer to secure a mortgage through a bank. If a buyer still cannot qualify for a mortgage loan when the time comes for the buyer to exercise the option to purchase the house, the seller can evict the buyer, keeping the house, the down payment, and the lease payments made up to that time. The buyer is left with nothing.

HOW ARE LEASE-PURCHASE AGREEMENTS DIFFERENT FROM A TRADITIONAL MORTGAGE?

1. The buyer loses all payments made to the seller if: (1) the seller cancels the lease due to the buyer's failure to pay a monthly payment or maintain insurance on the property or (2) the buyer fails to exercise the option to purchase when the time comes.

2. Often when a buyer enters into a lease-purchase agreement with a seller, there is already an existing mortgage on the property. If so, the mortgage, through the due-on-sale clause, may actually prohibit the owner from entering into a lease-purchase agreement. If the owner knowingly or unknowingly ignores this clause and enters into a lease-purchase agreement, the owner's lender may very well have the right to demand the entire amount of the loan. Unless the

buyer or seller has the ability to immediately pay off the underlying loan, all of the buyer's interests will end through the operation of the due-on-sale clause.

3. There are no protections from the acts of the seller that jeopardize ownership. For example, judgments filed against the seller, bankruptcy of the seller, or the death of the seller may result in all of the buyer's rights being cut off with no legal recourse against the seller.

4. An unscrupulous seller may transfer the property to another buyer after entering into the lease-purchase agreement, or may borrow money against the house, creating an additional mortgage. The new buyer or lender in that case may cut off all of the original buyer's rights.

5. The seller in a lease-purchase situation usually requires the buyer to pay for insurance and taxes on the property. If the seller carries a standard homeowner's insurance policy, the policy is likely to provide that any lease-purchase agreement will terminate the coverage of the policy unless the insurance company agrees otherwise. However, in a case where the seller has a pre-existing mortgage on the property, if the policy is changed to permit a lease, the insurance company will send a new copy of the insurance policy to the lender, thereby alerting the lender to the fact of the lease-purchase agreement and quite possibly triggering the due-on-sale clause. However, if the policy is not changed, the buyer and seller run the risk that there is not a valid insurance policy covering the property. If so, the mortgage will be violated, since there is not a valid insurance policy on the property. Even if the property is insured properly, if something were to happen, the seller will collect the insurance proceeds, but the amount the buyer pays the seller for the house will not be reduced to account for this.

6. Until the buyer pays for the property in full, any improvements to the property (such as new flooring or kitchen cabinets) by the buyer will be the seller's property. The seller does not have to reimburse

the buyer for costs associated with improvements even if the seller later evicts the buyer.

7. The buyer cannot get an equity loan until the option to purchase is exercised, even though he may be making long-term payments that would build up significant equity under a traditional mortgage.

8. While it is not a difference between a lease-purchase agreement and a conventional mortgage, there is another important characteristic of the lease-purchase agreement that all buyers need to be aware of. Even though a buyer is only leasing the property up until the time the last payment is made, buyers under these deals are not entitled to many of the consumer protections that are otherwise available to “normal” renters.

OTHER MORTGAGE ALTERNATIVES

A **land installment contract** is essentially a rent-to-own agreement for a house. While buyers may think they own the house subject to the loan as they would with a mortgage, the contract will say something to the effect that the seller will not transfer the title until the last payment is made, which may be 20 or 30 years later. If the buyer misses even one payment, the transaction functions as a lease agreement, allowing the seller to evict the buyer for non-payment of rent. Barring particular circumstances, the seller can keep the house, the down payment, and all the value of the equity the buyer would have accumulated under a regular mortgage.

Wrap-around financing is another alternative to a conventional mortgage. Here, a seller offers a new mortgage which includes the previous mortgage. The buyer makes monthly payments to the seller, and the seller makes payments on the original mortgage and keeps any money that is left over. The buyer is vulnerable, because the original mortgage can be foreclosed by the original lender if the seller does not make the payments on it.

WHAT DOES THIS MEAN FOR A POTENTIAL HOMEBUYER?

It may be that homebuyers, such as persons with poor credit or some members of the immigrant community who are unable to access the conventional mortgage market, will decide to enter into agreements that are less than optimal even after considering the alternatives. Their desire to own a home may be so strong that they decide to bear a significant risk. Ultimately, this is a decision each homebuyer must make for himself or herself. This is a decision that, ideally, needs to be made with the aid of competent legal advice. People in the position to provide legal advice or services to potential homebuyers should at least be aware of the possible pitfalls and should look for opportunities to enter into arrangements that are more like mortgages whenever possible. Some sellers may be willing to offer owner financing through a mortgages rather than through a lease-purchase agreement when they understand more about the other alternatives available. In some communities, local economic development and advocacy organizations have succeeded in establishing credit unions that provide home loans structured as mortgages to populations otherwise excluded. Some banks have also begun to seek ways to better serve immigrant homebuyers. However, improving access to home ownership is likely to be a long and complex process. In the meantime, we hope this information has been helpful.

CONTACT INFORMATION:

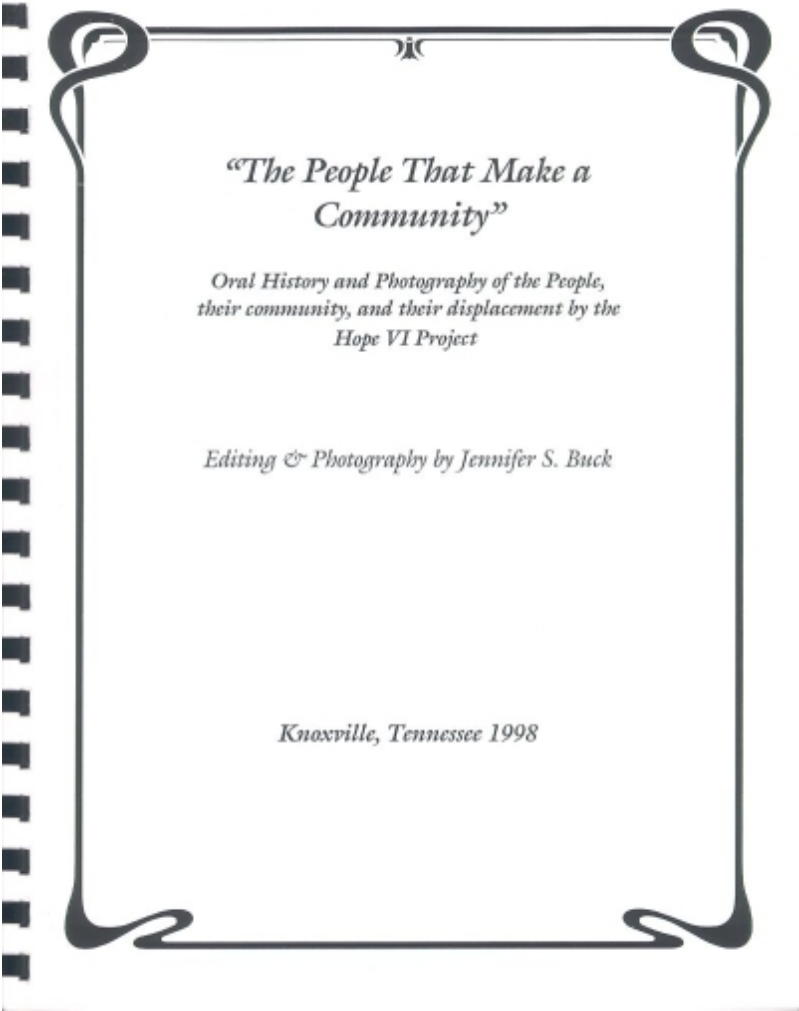
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Law Student Field Projects in Community Law

Teaching and Learning Portfolio

PERMANENT COLLECTION TEMPORARY COLLECTION MAIN MENU

project images: A Photo Essay and the Search for Shelter



Search for Shelter image gallery continued | 1 of 5 | [next](#) >

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Law Student Field Projects in Community Law

Teaching and Learning Portfolio

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project story: Spousal Rape Campaign

Jennifer Lichstein (on left in image)

In spring 2000, I enrolled in Community Legal Education, knowing that it was a course where students were going to work with community partner groups in efforts at lay legal education. There was a big range of choices for groups and projects that semester, but eventually I decided to get involved in a statewide legislative reform campaign aimed at repeal of Tennessee's marital rape exclusion. ([teacher comment on choosing projects](#))



In Tennessee, as in a disturbing number of other states in the nation, the criminal code still defines the crime of rape in a significantly different way, depending on whether there is a marital relationship between the rapist and the victim. The basic idea behind [Tennessee's statute](#) is that even if a man forces a woman to have sex with him under circumstances that would otherwise constitute the crime of rape, his act is not considered rape if he is married to the victim, unless he uses a weapon or causes “serious bodily harm” beyond the impact of the rape itself.

Even if a husband rapes his wife and does use a weapon or does cause her serious bodily harm or both, he can only be charged with the crime of “spousal rape.” This is a crime of lesser magnitude than plain old rape, and one that carries a lesser penalty. The only time Tennessee treats rape of a spouse as a crime of equal seriousness to even non-aggravated rape of anyone else is in cases where the spousal rape is carried out in a way that is “especially cruel, vile and inhumane,” when it would be considered “aggravated spousal rape.” (Note that implicit in this scheme is the assumption that forced sex with one's wife, even when accompanied by serious bodily harm or carried out with a weapon, is not, in itself, especially cruel, vile or inhumane. The provision setting up this definition of aggravated spousal rape was the legislature's response to the egregious facts in the case highlighted a couple of paragraphs below.)

The spousal rape exclusion is a hold-over from times when a married woman was said to merge legally into the person of her husband. Under the law, a married woman's identity became one with her husband's, and legally she became something like his property or his body part. She and her property became legally subject to his will in virtually all ways. In some treatments, the woman's consent still played a role in the analysis of the problem, but the role was formal only. By the fact of marriage, a woman was deemed to have consented to sex with her husband for all time and under almost all circumstances.

It is true enough that these are old ideas, and true enough that married women now have much more independence under the law than they once did. However, the vestiges of these ideas that are still preserved in today's marital rape statute have significant implications for contemporary women, given the number of women who are victims of sexual violence at the hands of their spouses. As recently as 1998, Tennessee's highest court reinforced the marital rape exclusion and restated its continuing force. The court held that a married man who had been convicted of aggravated rape of his wife was entitled to a reversal of the conviction, on the ground that he had proved incontrovertibly that he was married to the victim that and a married man could not commit “aggravated rape” in Tennessee. ([view PDF document about this case](#))

project story continued | 1 of 3 | [next](#) >

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

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project story collaborator perspectives student reflections artifacts+images teacher's comments resources

collaborator perspectives: Spousal Rape Campaign

Eileen Kogen, staff member at Sexual Assault Crisis Center

In Fall 2000, the Sexual Assault Crisis Center was part of a collaborative project with the University of Tennessee Law School to address the problem of domestic sexual violence, specifically how our current law excludes victims of spousal rape from pursuing the same legal remedies available to victims of non-spousal rape. As part of this project, law students educated themselves about the issue and took part in “real-life” efforts to raise public awareness in order to change the law.



Students learned from independent research and interaction with agency staff and marital rape survivors that spousal rape is often a silent but brutalizing aspect of family violence. To break the silence, students developed an educational campaign, including a brochure “Sexual Assault in Marriage: A Guide for Women Who Have Been Raped by Their Spouses,” still in use today by our agency. Students and staff traveled to our state capitol to participate in [Grassroots Assembly Day \(GAD\)](#), met with legislators on our behalf, and presented a video they developed, “All Women Deserve Protection,” that addressed the problems that marital rape victims face. This greatly increased the capacity of many small service agencies across the state to confront the disparity in our laws with the people who have the power to change them.

In addition to the benefits of enhanced education locally and across the state, the collaborative project benefited our agency in more subtle ways. It strengthened our internal organization around this special issue. By combining the energy, resources, and creativity of staff and students from different fields who typically do not strategize together, it sparked our creativity and commitment. The issue we focused on was our issue, and it did not feel like a sacrifice of time or effort to bring the students along. They were self-directed, motivated and involved. The collaboration enabled us to deal with a long-standing problem in new and unique ways. I wholeheartedly recommend such a project to others who may be considering one.

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

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project story collaborator perspectives **student reflections** artifacts+images teacher's comments resources

student reflections: Spousal Rape Campaign

Jennifer Lichstein

Team work

There were many wonderful things about being involved with this project. One of the best was getting to work as part of a team with other law students I liked and respected. So much of law school course work is individualistic and isolated, and this project was a welcome change. My collaborators were energetic and responsible; we shared similar perspectives about the issues involved in the campaign; and we worked well together. ([teacher comment on group projects](#))



Video skills

It was also really fun to have a hands-on skill-building experience with a new medium like digital film. We were fortunate that Bryan was on hand and was so generous with his equipment and his time. Without him I know we could not have carried off the video aspect of our project. ([teacher comment on skills](#))

student reflections continued | 1 of 5 | [next](#) >

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

PERMANENT COLLECTION TEMPORARY COLLECTION MAIN MENU

project story collaborator perspectives student reflections artifacts+images teacher's comments resources

project artifacts and images: Spousal Rape Campaign

Here is a list of artifacts and images from the Spousal Rape Project. View in sequence in the [Gallery](#) or go to the list below.



Artifacts

- [Campus paper: Jennifer speaks at "Take Back the Night" Rally](#)
- [Campaign brochure](#)
- [Estimated budget for project](#)

Images

The video we made was entitled "All Women Need Protection," and it ran for less than thirty minutes. It combined narration based on our factual and legal research with commentary from service providers and others knowledgeable about spousal rape. It also included excerpts from a legislative hearing on repeal of Tennessee's spousal rape exemption. Its intended audience was the public generally, and members of the Tennessee legislature in particular

- People with audio
 - [Barbara Stark](#) - UT Law Professor
 - [Eileen Kogan](#) - Counselor, Sexual Assault Crisis Center
 - [Patty Bordwine](#) - Tennessee Task Force Against Domestic Violence
 - [Kathy Hatfield](#) - Director, Family Crisis Center
 - [Stacey Hogg](#) - Counselor

- Lobbying Scenes
 - [Legislative Hearing](#)
 - [Campaign Buttons](#)
 - [Tennessee Task Force on Domestic Violence display table](#)

Law Student Field Projects in Community Law

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teacher's comments: Spousal Rape Campaign

This section collects the various Teacher's Comments that have appeared as pop-up options in the Project Story and Student Reflections segments of this exhibit.



A. Collected comments on the Project Story:

[Choosing Projects](#)
[Comment on Media](#)

B. Collected comments on Student Reflections

[On Group Projects](#)
[On Time](#)
[On Legislative Advocacy](#)
[Public Interest Law Career Planning](#)

Choosing Projects

I remember Jennifer having a real period of ambivalence at the beginning of the semester about what project she should undertake. In many ways, she said, she was attracted to working with the Sexual Assault Crisis Center, which was one of the choices I had listed on the menu of possibilities for student projects in the course that semester. She told the rest of us during an early class discussion that she already had in-depth experience in the movement against violence against women. For instance, she had volunteered as a crisis line counselor at the Sexual Assault Crisis Center in the past, and she had taken a leading role in organizing Take Back the Night activities on campus when she was an undergraduate at the University of Tennessee. Her past made a project with the Crisis Center look attractive.

At the same time, Jennifer reported a kind of dread about being drawn back into work on issues of violence against women. The world of battered and abused women can be emotionally draining in the extreme. She knew that it would be easy to become demoralized at the depth of the problems, at how little the “helpers” in the picture are often able to do in a given case, and how elusive the long-term solutions sometimes seem to be. Maybe, she thought, it would be a relief to work on something different for a change. And in any case, Jennifer was not a one-issue person. She certainly had other interests and was aware of other situations where a law student or lawyer might make an important difference.

I didn't really have much helpful advice to offer at that juncture. On the one hand, I was tempted to urge her to stay with the issue that had meant so much to her in the past. On the other hand, I could understand her reservations, and I thought she certainly deserved a break if she wanted one. Besides, while it sometimes works well for students to build on prior knowledge and to reconnect to their previous lives, it can also be a good thing for them to launch into unknown territory. I have seen field projects where students stumbled with amazement into a client population or an area of law that was brand new to them, but that eventually became an important focus for their career.

Comment on Media

Few law students get much training in how to approach media, although any kind of advocacy that includes appeals to the public must develop a media strategy if it is to be effective. Students of my colleague Steve Wizner at Yale are an exception. Steve includes a unit on media in his class on pro bono and public interest lawyering because he is convinced that knowing how to develop and manage a media strategy is an indispensable skill for public interest lawyers. He was kind enough to share with me some “Public Interest Plans” that students in one of his courses were required to develop, and I noted with interest that a media strategy appeared to be a mandatory component of each plan.

One media-related resource I recommend is a set of books called *How to Tell and Sell Your Story: A Guide to Media for Community Groups and Other Nonprofit*, and *How to Tell and Sell Your Story—Part 2: A Guide to Developing Effective Messages and Good Stories about Your Work*. Both are available from the [Center for Community Change](#). The books directly address many nuts and bolts questions about appropriate strategies—especially for groups that are not in a position to purchase media time or space. Indirectly, they also achieve a second goal that may interest some teachers—that is, giving students a glimpse of how things look from the perspective of a small grassroots community-based organization. That glimpse can be helpful for students who have little prior experience with such groups.

B. Collected comments from Student Reflections:

On Group Projects

I share Jennifer's enthusiasm for the potential benefits of student projects carried out by teams. A substantial

multi-disciplinary literature has developed around the idea that collaborative environments often promote better and more useful learning than do the more individualistic settings and tasks that still dominate legal education to a remarkable degree, with its lonely test takers continuing to toil away over end-of-semester bluebooks in a large proportion of law school classes.

Researchers in many disciplines have pointed out that group projects more accurately mimic real work environments that most students will go into after graduation. They also say that well-planned experiences with group projects expose students to strategies for constructing knowledge and solving problems that better comport with contemporary learning theory and are more likely to help students transfer what they are learning in classrooms today into the many different kinds of knowledge-demanding situations they will confront in the future.

At the same time, team projects pose special challenges that require conscious attention from the teacher and that pose certain risks. In Jennifer's case, the members of the team were personally compatible, similarly motivated, and worked well together with very little or no troubleshooting from supervisors about their group dynamics. Other students may need more help. Troubles can range from free rider issues, to disagreements about politics or logistics, to personality clashes, or different work styles, family responsibilities, or weekly schedules. Some teams flounder because members are not able to negotiate charged differences like gender, sexual orientation or race. And of course some students have deep experience working in groups and resolving conflicts, while others have practically none.

The teacher can help by providing students with some simple materials about how groups work, either as a general handout for everyone, or as a just-in-time intervention if it appears to be needed. In some cases it may be a good idea to require that groups come up with explicit roles and assignments (whether permanent or rotating), and that these be committed to writing and re-assessed as the project goes forward. The teacher should be conscious and ethical about the impact of his or her own power over students by making clear from the outset how group work will be assessed, and how individuals will be graded.

If group projects are not the norm in a given educational setting, I think it is also a good idea for the teacher to explain why the assignment is structured as a group project. It may sound obvious to say that students benefit from such explanations. Nevertheless, I have been forced to re-learn more often than I would care to admit that my reasons for doing "unusual" things are not always transparent to my students, and that they show greater patience and motivation with my experiments if I let them in on my thinking. Readers may protest that "usual" pedagogies don't have to go around explaining themselves all the time this way, and that's true, but fairness to teachers is not the issue here.

Institutional context affects classroom realities in many more areas than group assignments, of course, but I do think teaching methods that stress team over individual achievement run up against some particularly interesting countercurrents and resistances. One thought-provoking pattern I have observed is that law students who are accustomed to getting top grades sometimes have the most difficulty serving as good team members in group projects. Many law schools, my own included, regularly rank order the student body from top to bottom on the basis of their cumulative grade point average, and class rank can translate into significant advantages in terms of wider options, more money, and greater prestige. In this kind of environment, high-scoring students may feel that group projects pose a threat to their status. If they contribute to the project unstintingly, they may be diluting their own advantage by "giving away" to others their accumulated but always vulnerable margin of superiority.

On Time

Time is a huge challenge, not just for students, but also for teachers and for community partners. Like many other good things that have emerged in student projects in my classes, the option Jennifer figured out here emerged by lucky accident. Coordinating simultaneous assignments in two classes will seldom be a viable option. I think it may be the only time I have agreed to such an arrangement, and I am sure I don't need to lay out all the reasons why in many cases this would not be a good idea.

But the problem of finding adequate time – for students, teachers and community collaborators alike – will be ubiquitous. And teachers should be alert to as many different ways of solving the problem as possible. Jennifer offers some good suggestions here.

On Legislative Advocacy

For all the attention that law schools give to helping students learn how to read statutes closely and how to frame arguments interpreting them, we typically teach very little about the political process by which such legislation comes into being. Beyond an occasional wry nod to the old chestnut about the process of passing a statute being something like the process of making sausage (that is, one is probably better off not knowing too much about how it is done), I recall few moments in my own legal education when classroom discussion focused on this question in any serious way.

Accordingly, I was interested to hear from Jennifer that she was excited by her exposure to law-making in action. Clearly her comments were not the rose-colored-glasses remarks of someone in the first blush of an easy win. After all, the campaign in which she had worked so hard went down to defeat. Nor was hers the reaction of someone with personal political ambitions who was drawn to the atmosphere of wheeling and dealing that is sometimes so palpable in the halls of power. To the contrary, a big part of what she had most enjoyed was watching the members of Solutions gain in self-confidence and civic know-how from their own activities as quintessential "little guys" entering the scene from the margins. Her comments have made me stop and think.

My own experience with legislative activity is not extensive, and I have seldom felt personally drawn to that arena as a place where my energies would be well spent. However, my students, and sometimes their community partners, have recently been drawing me to pay more attention, and occasionally to become involved. Jennifer's recommendations here make me think that I should consider including a unit on legislative

advocacy in my community fieldwork classes whether or not one of my students is working on an actual legislative campaign.

It may also be important to expose a wider range of students to this area of practice because of limitations currently imposed on the large majority of practicing poverty lawyers. Congress has affirmatively forbidden lawyers who receive funds from the Legal Services Corporation to engage in most legislative advocacy, thereby increasing the need for pro bono lawyers to contribute their time to this kind of work.

Another factor weighs in the equation as well. The precipitous decline in voter turnout in the U.S. is now a cause of real concern to many observers, and startling levels of ignorance about the political process on the part of many Americans -- especially the young -- continue to be well documented. These trends have persuaded many people that we need more and better “civic education” in America at all levels. Various organizations, including national and state bar groups, now promote different kinds of civic education and civic engagement from K-12 through higher education and in adult basic education classes as well. These organizations provide resources to teachers and encourage young people to involve themselves actively in government.

Although law students may stand in need of civic education themselves, they are also in a position to help teach others about some aspects of law and the legal system. The civic education movement therefore opens an interesting opportunity for law student fieldwork. Civic education projects, often in partnership with state and local bar associations, can pair students with K-12 teachers and students, as well as with public-spirited local lawyers. Another student in one of my classes conducted a project in a local high school where students carried out a simulation based on U.S. Senate rules. They wrote bills, moved them through committee and took them to mock votes on the floor.

Public Interest Law Career Planning

It may be important to point out here that not all students who are interested in carrying out projects in the community while they are in law school are interested in full-time public interest law careers. Even those with a strong passion for a particular justice issue may want to pursue that interest by performing pro bono service while they earn their living in some other way. Plenty of interesting and memorable field projects have been carried out by students who went on to practice law in a private firm with a traditional for-profit orientation.

However, for those students who are interested in exploring a career in some type of public interest law, I could not agree more with Jennifer's savvy advice here. Students with these interests will greatly enhance their options if they are more pro-active and entrepreneurial in seeking out ways to pursue their interests and identifying who can help them learn the ropes about successful strategies for finding – or creating – public interest work in their area of interest.

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related resources: Spousal Rape Campaign

Internet Resources About Spousal Rape

[Spousal Rape Laws: 20 Years Later](#)

from Victim Policy Pipeline at the National Center for Victims of Crime

[The Police Response to Spouse Abuse:](#)

An Annotated Bibliography by Nancy egan



National Resources

[The National Coalition Against Domestic Violence](#)

[National Clearinghouse on Marital and Date Rape](#)

[Domestic violence criminal laws by level of offense](#) overview for all states

[The Wife Rape Information Page](#)

[Violence Against Women Online Resources](#)

[Department of Justice Office on Violence Against Women](#)

Statistics

[Data on women and crime \(ICPSR 2972\)](#)

[Forcible rape statistics](#)

[Sexual Assault Statistics](#)

Tennessee Specific Resources

[Overview of sexual offenses under Tennesse law](#)

[CEASE](#)

[Tennessee Coalition against Domestic and Sexual Violence](#)

[Domestic Violence State Resources](#)

[Tennessee](#)

[Tennessee criminal pattern jury instruction on Spousal Rape](#) from Tennessee Criminal Law Resources

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project story: IDEA Inclusion Project

Barbara Dyer

Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

Findings of the U.S. Congress
Individuals with Disabilities Act, 20 U.S.C. 1400(C)



In my search for a new course schedule at the end of my second year of law school, I happened upon the fall curriculum listing of something called “Community Legal Education.” Late in the spring I stopped by Professor Ansley’s office to learn more about the course, and I was amazed when she told me about projects that other students had done in the past that sounded like a perfect correlation to my interests. She explained that she was interested in finding ways for students to help underserved communities learn more about the law and about their rights. She also said that she expected most students in the class that semester would be working closely with Knoxville’s American Festival Project, a local community arts collaborative. So she was especially interested in finding students who were intrigued with the possibility of using the arts and creative expression to communicate about law and the legal system.

My husband and I have three wonderful children, each with a different kind of educational disability, and making sure that each of them got what they needed in school has been quite a challenge. With [our daughter India](#), who has Down syndrome, we ran into the most resistant barriers. Our efforts on her behalf eventually propelled us into many years of lay advocacy for the educational rights of children with disabilities. So I already had “my issue” firmly in mind, as far as a focus for doing “community legal education.” It also happens that my husband [Wayne Dyer](#) is a visual artist and graphic designer who had already been thinking about creating a visual installation of some kind that would focus on these themes.

So as I talked with Professor Ansley and heard from her about plans for the fall and about projects that students in the past had done, I began to see more and more possibilities for a project of my own. Soon we were brainstorming about how I might integrate not only my concerns about the rights of children with disabilities, but also the members of my own family, into an event designed to reach the public through performance art and a visual installation. I was truly excited to think that all these people and ideas might come together in a project that I could do for law school credit. ([teacher comment on enabling contagion](#))

Over the summer, my husband and I developed some concrete plans for an installation and performance. Wayne and my basic idea was to join a children’s dance performance with a multi-media installation that would educate the public and celebrate diversity and inclusion, with a special focus on persons with disabilities. In particular we wanted to publicize the mandates of an important federal statute, the [Individuals with Disabilities Education Act](#) or [IDEA](#), which guarantees that all children with disabilities have a right to a “[free and appropriate public education](#)”; in the “[least restrictive environment](#)”; appropriate for their learning.

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Law Student Field Projects in Community Law

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collaborator perspectives: IDEA Inclusion Project

A number of collaborators and community members had important perspectives on this project.

[Wayne Dyer](#), Project Partner, Installation Designer

[Mark Lamb](#), Project Partner, Choreographer

[Donna Jennings](#), Parent-Activist and Audience Member

[Dean Rivkin](#), Legal Advocate and Audience Member

[Michelle Rosenberg](#), Project Participant and Dancer

I. Project Partners

M. Wayne Dyer, Professor of Art & Design, East Tennessee State University

The moments before the unveiling are the most tense. The array of panels monolithically stands motionless and gives meaning and understanding to "The Law."

The performers are excited, jittery, poised for action and almost breathless until the silence is broken by the soundscape: raucus sounds of children, teachers, lockers slamming, sounds that are familiar in educational settings. All of the planning and hard-earned sweat, concern, and worry are dissipated in a multi-sensory moment when it is clear that control is now relinquished into the feet of the dancers. The sound, moves, and gestures give the impression of a public school environment.

Then the dancers begin: they embrace the IDEA law with their actions and their touches, until they group together as a circle. To illustrate exclusion one dancer is expelled and then attempts to come back into the circle with several frustrated attempts but no success. The segregated dancer moves to another part of the dance floor and collapses in a heap, illustrating only too poignantly the hurt involved with being excluded.

But then we see a change. The young people in what was the exclusionary circle begin to move in a compassionate spiral, around and around to encompass the segregated student. The group embraces the lone dancer and lifts him high. At that moment, the music changes to a more melodic and poetic form to illustrate the value and importance of being included.

The dancers have all moved as if they have magical wings attached to their feet. The event has spun past, and before one could ponder, delight in, or absorb the vision, it is but a memory. Applause fills the void and our motley group of co-creators are left with the success, the performance, the law still standing tall on its panels, and the jubilant students beaming and bowing to their enthusiastic audience.

collaborator reflections continued | 1 of 4 | [next](#) >

student reflections: IDEA Inclusion Project

Barbara Dyer

Issues of fairness for children with disabilities are a powerful theme in my life and in the life of my family. Problems our children encountered were the original impetus behind my husband and my decision to get involved in these issues, and that involvement has now become a major commitment that he and I share. Through my work on the Inclusion Project, I feel that I was able to take that commitment one step further or deeper, and a number of things have become more clear to me.

[A. Facing challenges of inclusion within the project itself](#)

[B. A foundation for future work](#)

[C. Why community legal education on this issue is important](#)

A. Facing challenges of inclusion within the project itself

One thing that is particularly striking to me as I look back on this project is that the very same issues we are trying to get school systems to address, the very same issues that families of children with disabilities so often encounter as they try to help their children meet their futures, were also present in our work on this project. We were carrying out this project across many kinds of difference, and sometimes those differences made life difficult.

For instance, some of the children in the dance group had diagnosed educational disabilities, while others did not. Further, each of the disabilities present was different from the others, and each posed its own challenges and offered its own rewards in the context of planning and carrying out our performance. The children were also of different ages, races, and economic backgrounds. Few of them knew each other at the beginning of the project. They had different degrees of interest and experience in dancing. The children's parents, whose help with transportation and other support was crucial to the project, were each laboring under different kinds of burdens as well, and for quite understandable reasons they had different degrees of commitment to the project, and experienced different kinds of barriers to their own participation. So you can imagine that the path toward our final performance was not always smooth.

At one point, for instance, I remember Mark having a talk with one of the dancers who had strong ideas about excellence in dance, and who was struggling with what she took to be a lesser commitment by some of the other participants. Mark worked hard to help her see that the whole idea of the project was for each person to bring his or her issues to the table and express them through dance and gesture. He explained that it was important for all to be accepting of each other's problems and to work out ways to resolve those differences and support one another. Then they discussed the larger picture of being involved in a project such as this, and how beneficial it could be for everyone involved. This was a great conversation, although of course it didn't neatly resolve all the different pushes and pulls that we all continued to feel as we worked on the project.

Despite the undeniable difficulties, it was great to see the children working through them and delivering a performance that moved its audience. I remember especially the day that we performed at the LRE for LIFE conference. We had called a final dress rehearsal for late that afternoon, on site at the hotel, and there was some time between that last rehearsal and the actual performance, while people were gathering, and the children had to wait for curtain time. As I looked over at the place where they were waiting, I was really struck by the scene. The children were braiding and fixing each other's hair, playing together, and just enjoying each other's company, without any big fanfare or programming or supervision. After all, they had naturally gotten to know each other over the course of rehearsals, and they were about to carry off a high-stakes joint endeavor.

It seemed to me as I looked at the children that afternoon that the project had transcended its original boundaries and had become larger than we could have planned. Not only were we depicting in a performance that children may learn and build relationships together if only given the chance; but in reality, in the process of creating and rehearsing their dance, our children had done just that. They had found a bond among them that had emerged in the course of their working together, and in that moment of calm before the performance, it was there for all to see.

I am not suggesting that all our political and artistic goals and visions for the project were fully achieved, or that all the tensions among our multiple goals and desires were easy to navigate or optimally addressed. But the project was a wonderful start, and I believe the very difficulties we encountered among ourselves made the project more authentic and more encouraging.

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artifacts and images: IDEA Inclusion Project

Artifacts

[Publicity for our Preview Performance](#)

[Publicity for end-of-semester showcase with other law students](#)

[Sample certificate awarded to young dancers](#)

[Spanish-language leaflet used later for outreach to Latino community](#)

[Tennessee Disability Coalition's Brochure on disability etiquette](#)
Courtesy of the TN Disability Coalition: coalition@tndisability.org



Images

[Our daughter India and some of her school friends on her 16th birthday](#)

Images from rehearsals and performance: a sequential [gallery](#) of images

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teacher's comments: IDEA Inclusion Project



This section collects the various Teacher's Comments that have appeared as pop-up options in the Project Story and Student Reflections segments of this exhibit.

A. Collected comments on Project Story:

[Enabling contagion](#)

[On stretching semesters](#)

[On the gifts a gifted dancer can bring](#)

["This is our law"](#)

[On Knoxville College](#)

B. Collected comments on student reflections

[On starving artists](#)

[On cognitive apprenticeship](#)

Enabling contagion

One thing I am beginning to learn is that exciting projects can inspire and energize later students if I can find ways to capture and pass on knowledge of the earlier projects. Occasionally the inspiration is purely abstract: one interesting project will suggest an idea for another. At other times, there is a more concrete or direct connection.

In Barbara's case, when she happened to stop by my office that day and we began to talk, she was excited in a general way about using the arts to communicate about legal rights. She saw a way she might link work in my course to a dream that she and her husband had already been independently exploring. But she was also particularly inspired when I showed her some materials about the Mobility Project -- an unusually creative undertaking by a former student who had worked with a local dance company to choreograph and perform a dance about issues of physical mobility and access to public spaces. As I showed Barbara some pictures from that performance and reminisced about how the project had unfolded, Barbara started to wonder right away whether she might be able to work out some kind of collaboration with the same dance company, this time focusing on children with less visible disabilities, and on their right to an inclusive education. As things turned out, that is precisely what happened.

In other cases, I have had students who wanted to work with a particular community-based organization because they had heard from a prior student about the group and its mission, because they could see how a prior project could be extended with additional input, or because a particular story or image or artifact from the previous work had somehow caught their imagination. Similarly, community organizations sometimes come to me because they have heard about a project where a law student's contributions helped another group to advance its goals or educate its members in a way it would not otherwise have been able to do.

An important motivation for me in building this website has been my growing appreciation for how this process of cross-fertilization works -- that projects can build on each other or trigger related experiments, that enthusiasm about possibilities can be infectious, that adventurous students (or community members) can egg each other on in productive ways. These connections can be wonderful, but they don't always get made. Project artifacts get lost or destroyed, my own memory and eye for correspondences is not always the best, the course descriptions I write get overwhelmed in the shuffle of other course and registration materials in the law school's administrative offices, and in any event, students who don't happen to drop by my office on an opportune day like Barbara did that afternoon, may never hear the story that could get them thinking. I hope that this website will allow me to capture evocative information about a range of suggestive projects, and that it will allow me to make that information more readily available to successive generations of students and collaborators than has been possible by relying on the patchy methods of the past.

On stretching semesters

A chronic problem with community fieldwork is the serious limitation imposed by the length (or as one of my students once said, "the shorth") of the semester. Few good projects can easily fit within a 14-week frame. This is so even in cases where the student and the community collaborator are already paired and ready to go at the very start of the semester, and even when unanticipated delay and interference do not arise during the term. In fact in the vast majority of cases, it takes a while for students to find their projects, and unanticipated delay and interference often do arise. Further, the allures of procrastination are always at hand.

Given these constraints, I try to take advantage of any head starts that I possibly can. I try to get the word out that students can come and talk to me ahead of time about projects they might undertake. If I find a student like Barbara who is a strong self-starter and already seems to have a vision of what he or she would like to do, I strongly encourage the student to go ahead with significant preparation before the semester begins. In the case of the Inclusion Project, the foundation that Wayne and Barbara laid, and the relationship she began building with Mark Lamb during the summer, were part of the reason why the Project came together as well as it did, and why they were able to pull off the performance and installation before the semester was done.

At the other end of the process, I have been known to work with students beyond the end of the semester to tie up loose ends or go the extra mile for a deserving community collaborator. But I have learned the hard way that this is a route to be avoided unless the circumstances are truly exceptional. Some students will continue to work with their community partners, of course, because that it is what they want to do. But their decision in that regard is a separate matter from their work for credit in my course. My own responsibility as teacher is to work with students and with their community collaborators to explain realities, clarify expectations, and push for appropriate closure by the end of the semester.

I can tell you that this stance is not an easy discipline for me to embrace, since my personal tendency -- in this as in many other spheres of my life -- is to resist closure to the last. But it is not good for any of the parties involved to allow creeping expectations of additional work beyond the end of the semester. In most cases such expectations are unfair, and in any event they are usually unrealistic, even when students genuinely believe they will continue working or continue putting final touches on the project.

Sometimes it is possible to find a way for the student to expand work on a project into the following semester for credit, and if the student is interested, this is usually a better option than pipe-dream volunteerism. In some years, I have taught a course in the spring that was flexible enough to accommodate some students from the fall who wanted to extend and elaborate their projects. Occasionally I have agreed to supervise a student in a directed research or independent study project that would allow continued development of a project begun in an earlier course. All these options may run into the problem of competing demands on students' time. They are having to juggle many factors, including bar exam preparation, required course sequences for certain "concentrations" that many students at my school pursue, etc. But doing additional work for credit does offer one avenue of relief when a project could use an additional segment, and the student wants to pursue it.

On the gifts a gifted dancer can bring

I wasn't able to attend the introductory session that Barbara describes here, but I have been present when Mark did a similar exercise with a room full of law students and community collaborators, and I can report that it was really magic. As people went around the circle answering a question that one of the facilitators put to all of us, Mark unobtrusively took quick notes about a gesture and a word that each of us made and said. At the end of the circle, he gave us back our words and gestures, and then invited all of us to practice repeating them for each other as a group. The exercise worked as an engaging way of helping people get acquainted, and it served as a vivid demonstration of the communicative power of simple movement. We had people in the group who had limited English proficiency, and this exercise was highly inclusive and welcoming for them as well.

Whenever Mark does this exercise, he makes a special point of telling everyone as they perform each other's gestures that they are now "dancing." So in this way the exercise also works to demystify what "dancing" is all about, and to offer a democratized and non-threatening experience of what "dancing" might mean in a community education context.

"This is our law."

One of my strongest memories of this project comes from the evening when it was installed and performed at the downtown Hilton Hotel in Knoxville for a meeting of a group of parents and educators called "FAST: Families and Schools Together." This annual conference was co-sponsored by a parent group called STEP and another group called "The LRE for LIFE Project," and the audience that evening was heavily salted with parents of children with disabilities.

Before the performance began, all was in readiness: Wayne's beautiful panels were standing at the front of the banquet room. India and the other children who were going to dance were jiggling around happy but nervous in the wings, and Carrie and Fletcher, the Dyers' two other children, and Tim Kondas, a friend, were managing video cameras that were set to record the proceedings. I think one of the conference organizers had just announced a prize to be awarded to a parent who had worked exceptionally hard or had achieved some particular success over the past year, and the feelings of camaraderie and fellowship were palpable in the room.

Then Barbara and Mark Lamb stood up to introduce the program. They explained the (somewhat complicated!) context and told a little about the dance that was to come. Then Barbara turned to say a few words about the visual installation. She was standing directly in front of one of the two panels that contained the text of the IDEA. She gestured up toward the text and said with shining eyes, "This is *our* law, this is the Individuals with Disabilities Education Act." My memory is that the audience broke into applause. Maybe I invented that detail, but I can say for sure that a glance around the room showed that people knew what Barbara meant, and resonated to her words when she said with such pride and affection, "This is our law."

It may sound a bit like people were reifying alienated words on a giant page in a way that might not be a helpful or effective way to think about a civil rights statute. But I don't think for a minute that was the case. This was a room full of people who knew only too well and up close exactly how weak the IDEA is unless parents and concerned educators work and fight to make it real. Nevertheless, the people in the room were also fiercely proud of the law's existence and eager to show it respect.

The installation did a good job of embodying and expressing this ambiguity. On the one hand were the honorific panels just described, which set out the full text of the law in celebratory fashion. On the other hand, one of the most powerful panels Wayne created was not a celebration at all, but a sharp critique. In eye-catching large-font text, that panel displayed key passages from a report on IDEA by the National Council on Disability, including statements to the effect that after "more than two decades of federal monitoring and enforcement of compliance with Part B of IDEA," the Council had been forced to conclude "that federal efforts to enforce the law over several administrations have been inconsistent, ineffective, and lacking any real teeth." (National Council on Disability, "Back to School on Civil Rights: Advancing the Federal Commitment to Leave No Child Behind.")

So neither the installation nor the audience that night were into misty-eyed romantics about the efficacy of the IDEA standing alone. Far from it. But in many ways, people's evident realism about the politics of law made it all the more remarkable and moving to see how pleased they were to see "their law" accorded public honor and respect, as expressed in Wayne's aesthetically satisfying panels.

On Knoxville College

Knoxville College is a historically black undergraduate institution in Knoxville, founded in 1875 by Presbyterians as part of the effort by a number of Protestant denominations from the North to build up black educational institutions in the South in the

wake of the abolition of slavery. The College provides a home to Carpetbag Theater, the lead sponsor of Knoxville's American Festival Project, so it has become a natural gathering place in semesters when some or all of my students are involved in collaborations with AFP or Carpetbag. The administration at the College has been very gracious in allowing my students and their community partners to take advantage of the facilities for many gatherings, trainings and meetings that we have held there over the years. I have found that many of my African American law students are especially glad for the opportunity these field courses have sometimes given them to learn more about Knoxville College and to connect with students, teachers and staff there.

B. Collected comments on Student Reflections:

On starving artists

One of the most excruciating things for me as a law teacher about working with artists is the shameful state of funding for the arts. Here I sit with tenure and a law professor's salary, working with students, many of whom are anticipating income that falls at least somewhere in the "professional" range, and we are asking for help from people who may quite possibly lack even health insurance. Often they are piecing together their rent and groceries from a patchwork of underpaid jobs and small grants.

It is clear that artists can bring inestimable kinds of added value to projects in law-related education. And in most communities there will be local artists more than happy to work on projects that involve law students (or other kinds of students) in community-based educational projects with disadvantaged and underserved populations. But such artists cannot live on air.

Under these conditions, I believe university-based teachers and students have an obligation to be thoughtful about how they structure collaborations. For instance, we should avoid making any assumptions about whether artists can volunteer their time with us. We should find out how they are supporting themselves first, and offer to strategize about ways to get funding for their contributions. Then if it turns out they are independently wealthy or have a pot of grant money at their disposal, that's great. If not, then maybe we will have to get in there and help scrounge.

For instance, professors can write letters of support for grant proposals. Many funders want to see that arts groups have partners who value their services and can help them reach out to new constituencies. A law school connection is non-traditional and might catch a funder's eye. Sometimes arts groups need "humanities advisers" for proposals directed at humanities funders. Law counts as a humanity in its jurisprudential reaches, so law professors can help out in this regard, as can professors in many other disciplines. Some universities have internal funds that could support this kind of collaboration if properly packaged. With advance planning, a professor and community arts groups could write a joint grant proposal to a local or national foundation to support an artist's work with students.

In the case of the Inclusion Project, Barbara applied for support to Knoxville's American Festival Project, and was thereby able to pay Mark a pittance for his work on the project. At the time, Knoxville's AFP had a fund for micro-grants to support exactly these sorts of collaborations.

The problem of equitable partnerships is not limited to work with artists, of course. Grassroots community groups are often struggling on tight budgets. If a teacher is asking a community organization to contribute its time and expertise to a student field project, the teacher should recognize the time sink that endeavor will entail for the organization and should initiate express conversations about the resource questions that will be embedded in the enterprise.

Nevertheless, though the issue extends beyond the arts community, I think artists are the ones who sometimes encounter the most resistant assumptions from the rest of us. Don't they somehow survive on nectar from flowers? Haven't they committed themselves to a bohemian life that needs no filthy lucre? There is a story about Woody Guthrie that I sometimes recount to myself in this regard. Reportedly, Woody had been asked to sing a benefit concert for a local organization. He said he would be happy to do so, and then explained that he would expect to receive payment for the concert. The person from the organization said, "Well, I understand that the amount you are asking for is modest, but we were hoping that you would agree to sing for free. After all, this is for a good cause." The story goes that Woody laughed and said, "Well, yeah, I realize that. You know, I don't sing for *bad* causes."

On Cognitive Apprenticeship

The remarks that Barbara makes at this point in her reflection offer an insightful observation about the educational component of her work with families. She recognizes here an implicit dynamic that takes place in one of the important forums where she does her work: the face-to-face meeting between parents and school authorities. As it happens, my reading in the literature on teaching and learning has given me better tools for appreciating just how valuable her insight might be, and how she (and I) might build upon it.

On the surface, one might describe Barbara's role in parent-school meetings as classic "advocacy." Although these meetings do not involve a formal courtroom or a hearing procedure, and although there is no requirement that those accompanying parents to such meetings be attorneys, the role that the accompanying person plays can certainly be likened to traditional legal representation. In such settings, Barbara often speaks for the family based on preceding consultations she has held with them in preparation for the meeting. One of the main things she brings to the setting is her familiarity with the law governing the relationships involved, a familiarity that is immediately evident to the educational professionals at the meeting. She enters into the interaction with that law intensely in her mind, and it would not be at all unusual for her to make frequent reference to legal requirements during the course of the meeting. She may engage in explicit or implicit negotiations on behalf of the family during the course of the meeting. All of this looks a lot like what we law teachers would call "representation" and "advocacy," not "education."

But Barbara has noticed here that a related but quite different dynamic is simultaneously taking place. In the parlance of current educational theory, these meetings with authorities are functioning as a kind of "cognitive apprenticeship" for the families that she accompanies. Studies of the learning process have flagged cognitive apprenticeship as one of the best ways for learners to build competence and understanding in complex fields. It turns out that learners demonstrably benefit from being put in situations where they can observe and interact with an expert -- watching that expert encounter a problem and begin to make sense of it, seeing the expert's moves, and having an opportunity to absorb something of the expert's way of thinking about the problem. An important component of this process is giving learners a chance to practice their own moves at the side of the expert and under his or her friendly gaze, perhaps supported as they do so by various kinds of cognitive "scaffolding" arranged by the expert. Much of this practice activity may take place well before the learner entirely

understands the nature of the problem. Apparently, learners best advance to understanding of complex matters by growing into it through cycles of supported practice and reflection carried out in fruitful "proximity" to the expert mentor/teacher.

Barbara's observation makes me want to examine other examples of attorney-client relationships (or attorney-client-like relationships), looking for places where cognitive apprenticeships may be taking place, but where they could be strengthened if the attorney (or attorney-like teacher) were more conscious about the apprenticeship aspect of the activity and more familiar with the relevant literature on teaching and learning. I wonder how we might better encourage and prepare more lawyers to be "teachers" of their clients in this sense, able to work with them toward an outcome of greater independence and autonomy, at least when that seems suitable.

One good resource on the subject of cognitive apprenticeships is Allan Collins, John Seely Brown, & Susan Newman, "Cognitive Apprenticeship: Teaching the Crafts of Reading, Writing, and Mathematics," in L. B. Resnick (ed.), *Knowing, Learning, and Instruction: Essays in Honor of Robert Glaser*, Hillsdale, NJ: Lawrence Erlbaum Associates (1989) pp. 453-494.

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related resources: IDEA Inclusion Project

The resources below are aimed at giving some first points of entry, first into the education-related rights of children with disabilities, and second, into the world of dancers and other community-based artists who work with the themes so central to Barbara's project.

I. The Educational Rights of Children with Disabilities

II. [Dance, Other Arts, and the Politics of Inclusion](#)

I. The Educational Rights of Children with Disabilities

A. Publications on the educational rights of children with disabilities

National Council on Disability, "Back to School on Civil Rights: Advancing the Federal Commitment to Leave No Child Behind," January, 2000.

Ordovery, Eileen, *Education Rights of Children with Disabilities: A Revised and Updated Primer for Advocates* (2001) Washington, DC: Center for Law & Education.

B. Websites and organizations related to educational rights of children with disabilities

Council for Exceptional Children

<http://www.cec.sped.org/>

Council of Parents Advocates and Attorneys

www.copaa.net

- Disability Pathfinder

<http://kc.vanderbilt.edu/kennedy/pathfinder/index.html>

- From Vanderbilt; provides information and links to other resources.

IDEA Practices

<http://www.ideapractices.org/>

Kids Together Inc. (Pennsylvania)

<http://www.kidstogether.org/>

National Council on Disability

<http://www.ncd.gov/>

The Office of Special Education Programs and Rehabilitative Services (OSEP)

<http://www.ed.gov/about/offices/list/osers/osep/index.html>

SpecialEdlaw.net

SpecialEdlaw.net

Special Education News

<http://www.specialednews.com/states/tn/tnlinks.html>

- Statistics for the state and links to resources. Same site links to [IDEA compliance report](#).

Tennessee Department of Education, Division of Special Education

<http://www.state.tn.us/education/speced/index.htm>

Tennessee Disability Coalition

www.tndisability.org

Tennessee Protection and Advocacy, Inc. (TP&A)

<http://www.tpainc.org/default.htm>

Advocates for the rights of Tennesseans with disabilities to ensure they have an equal opportunity to be productive and respected members of our society.

U.S. Department of Education (annual reports on IDEA implementation, and more)

<http://www.ed.gov>

West Tennessee RISE Project Homepage

www.people.memphis.edu/~coe_rise/

Wrightslaw_

<http://wrightslaw.com/>

II. Dance, Other Arts, and the Politics of Inclusion

A. Books and articles on dance, other arts, and inclusion

Linda Frye Burnham, "Dancing in Praise of ... ," *Yes: A Journal of Positive Futures*, Summer 2002, pp. 19-21 (describing the Hallelujah Project of the Liz Lerman Dance Exchange, a three-year traveling dance workshop did new performance works with 15 communities in the U.S.)

Linda Frye Burnham, "Impatience with Things as They Are: Art Faces a Developmental Challenge," *High Performance* #62 (Summer 1993), reprinted at www.communityarts.net/readingroom/archive/impatience62.php

Linda Frye Burnham, and Steven Durland, eds. *The Citizen Artist: 20 Years of Art in the Public Arena* (an anthology of articles from *High Performance Magazine*, 1978-1998).

Elias Katz, *Art Centers for Adults with Disabilities*
www.communityarts.net/readingroom/archive/intro-disabilities.php

Liz Lerman, *Teaching Dance to Senior Adults* (1984) Charles C. Thomas Publishers.

Liz Lerman and John Borstel, *Critical Response Process: A Method for Getting Useful Feedback on Anything You Make, from Dance to Dessert* (2003) Washington, D.C.: Liz Lerman Dance Exchange

B. Websites and organizations related to inclusive dance

Alternate Roots
www.alternateroots.org

Circle Modern Dance
www.kornnet.org/circle/

Community Arts Network
www.communityarts.net

Liz Lerman Dance Exchange
www.danceexchange.org

National Institute of Arts and Disabilities
www.niadart.org

Law Student Field Projects in Community Law

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project story: Tennessee Immigrants and Criminal Justice

McKenna Cox, Kimberly Pride, and Michael Wright

- [A.Overview](#)
- [B.Background](#)
- [C.The interviews](#)
- [D.Summing up](#)



A. Overview

The three of us worked on this project in the spring of 2004, in collaboration with Latinos Unidos, a membership-based community organization working to build local chapters in selected locations in East Tennessee. Professor Ansley was closely involved with some aspects of the project, and starting in mid-March we also received helpful contributions from Spring Miller, Professor Ansley's research assistant, a pre-law student interested in immigrants' rights.

The goals of Latinos Unidos are "to provide a voice for the Latino community, to educate the public about their needs, and to take action to address these needs." The basic purpose of our project was to conduct a preliminary investigation into the relationship between some Latina/Latino immigrant communities in East Tennessee and the [criminal justice system](#) . We carried out nearly twenty open-ended, qualitative interviews with native-born people and immigrants in our area, experimented with a brief survey ([Teacher Comment on survey troubles](#)) of immigrant families, produced both an [Interim Report](#) and a Final Report for Latinos Unidos. The report included notes from individual interviews, our findings and recommendations for future research, and a basic primer for non-lawyers about criminal justice structures and procedures in Tennessee.

During the semester the three of us learned a great deal about a set of people and important issues that have recently emerged here in our own backyards, and all of us feel that the experience changed our perspectives and understandings in lasting ways. The combined efforts of Latinos Unidos and the students at the law school fostered an environment beneficial to both groups. Further collaboration is both desired and encouraged by the students.

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collaborator perspectives: Tennessee Immigrants and Criminal Justice

June Rostan, Past Executive Director, Southern Empowerment Project

Working on this pilot project with McKenna, Kimberley and Michael has been delightful. Together with their professor, Fran Ansley, and the Advisory Committee from Latinos Unidos (Stephanie House and Santos Aguilar) we all worked as a team. Most of the hard work was up to the terrific trio from the law school. They conducted the interviews with immigrants and their families and with people working in the criminal justice system in East Tennessee. What I really loved was seeing them learn about the problems that immigrants have and hearing their passion for the problems immigrants encounter in getting treated fairly. It is an honor to have worked with them.



Honduran immigrant who was interviewed by law student team members

I enjoyed [speaking with the students](#) who are working on this project. It makes me feel good to know that there are people who are interested in understanding the situation that we face as immigrants, and it is especially good to know that there are people interested in supporting our communities. I felt good after talking with the students because I had been able to share realities and experiences that were new for them. I would be interested in talking again with U.S.-born people about my life and my experiences, as long as there are no police around! Also, sometime I think it would be nice to see the students again in a different setting and to be able to talk about things unrelated to their work, more as friends.

Spring Miller, research assistant to Professor Ansley

I arrived in Knoxville mid-way through the spring semester and was amazed by how deeply the students were engaged with this project. They had uncovered lots of rich information and stories, and were pursuing a complex and expanding web of contacts within the immigrant and criminal justice communities. I was very impressed by their resourcefulness. The challenges of taking on an investigation like this in a region where the presence of fast-growing immigrant communities is still new and mysterious to most residents and institutions are great. The organizations dedicated to serving and promoting the well-being of these communities are still in fledgling stages themselves. In many ways, these students were "going out on a limb," forcing conversations about what is still a largely invisible phenomenon, and delving into a complicated and -- at least in this city -- largely uncharted world of issues. These students didn't hold back, though; they really allowed themselves to be affected by and to grow from what were probably somewhat unsettling new experiences. I really admire them as people, and I appreciated having the chance to support in small ways their good work.



collaborator perspectives continued | 1 of 2 | [next](#) >

student reflections: Tennessee Immigrants and Criminal Justice

McKenna Cox, Kimberly Pride, and Michael Wright

Before we begin our reflections, we thought readers might want to know a little more about us. This was a research project, after all, and to understand research, you need to understand the researchers. While objectivity was the goal of our project, absolute objectivity is rarely possible in any endeavor, especially when researching human behavior. So for more information about us, click on [McKenna Cox](#) , [Kimberly Pride](#) , and [Michael Wright](#) .

Our reflections below are divided into three main sections:

- A. Difficulties and frustrations
- B. [An unexpected high point](#)
- C. [Overall reflections from individual team members](#)



A. Difficulties and frustrations

1. Getting interviews

As one of us remarked in a report to Professor Ansley, “By far the single largest frustration working on an interview-based project is scheduling interviews.” ([Teacher comment on trouble getting through](#)) Here are some observations several of us made about this aspect of our work:

It is amazing how many people just do not return telephone calls. For me, the frustration was that I was constantly trying to walk the line between being persistent and telephone harassment. I know that the others in my group had the same unpleasant experience.

* * *

Conducting interviews for this project was rather straightforward, given the latitude we had with the questioning. *Arranging* interviews was a different story. In general, problems with arranging interviews with those that were willing to be interviewed originated not in their particular difficult schedules but in the relatively short period of time a semester allowed us as students to pursue the interviews. For instance, a local minister I contacted seemed very willing to set up an interview. However, it only took a couple of school deadlines and a few conflicts with work on my part and a trip to Venezuela on his part to delay a meeting time beyond the scope of our project.

* * *

Getting people to return phone calls is surprisingly difficult! We tried leaving messages describing our project, and also leaving those just saying we were law students. It gets very frustrating to try to make contact with someone you really want to talk to and get no response or a phone call weeks later.

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artifacts and images: Tennessee Immigrants and Criminal Justice

Artifacts(PDF Format)

[A funding opportunity](#)

What first got Latinos Unidos thinking about working with lawyers and law students was a "Call for Letters of Intent" that was issued by the Funder's Collaborative for Racial Justice Innovation. We post it here because the approach it describes to lawyer-community collaboration was quite interesting, and we thought others might want to see it as well.



[Interim Report on pilot study, April 2004](#)

Latinos Unidos wanted an interim report they could show to supporters and funders in the middle of the semester, and this is what we produced.

[Spanish-English Glossary of Legal Terms](#)

As we worked on this project, we began to realize that accurate translation of legal terms and legal concepts is not an easy task. Spring Miller, Professor Ansley's research assistant, volunteered to coordinate putting together this glossary, drawing on her very helpful experiences in Central America and in urban immigrant communities in the Northeast and Midwest. We are aware that usages vary and that translation can be a difficult enterprise. Feedback is welcome.

[Demographic Change in Tennessee: A Survey of Demographic and Social Science Research](#)

We found that many of the people we spoke with repeatedly asked us for information about the nature and magnitude of the demographic changes now taking place in Tennessee, the Southeast, and the nation as a whole. Spring Miller, Professor Ansley's research assistant, put together this survey of available information on this topic.

[English](#)

[Español](#)

Latinos Unidos handout explaining the pilot study to potential participants. This is the "letter of introduction" developed by Latinos Unidos to explain its project, offer confidentiality, etc.

Images

Here are some images from our project. View sequentially in the [gallery](#), or go to the list below.

[La Tortilla, a small community store](#)

[Tennessee Immigrants and Criminal Justice Team Meeting #1](#)

[Tennessee Immigrants and Criminal Justice Team Meeting #2](#)

[Irma Gonzalez Freestate, Attorney, Maryville, TN](#)

[Howard H. Baker, Jr. U.S. Courthouse, Eastern District of Tennessee](#)

[Kimberly Pride and Michael Wright, Law Student Team Members](#)

[Tammy Haggard, Alianza del Pueblo](#)

[Santos Aguilar, Alianza del Pueblo](#)

[Stephanie House, Latinos Unidos Project Advisory Committee Member](#)

[Tennessee Immigrants and Criminal Justice Team Meeting #3](#)

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teacher's comments: Tennessee Immigrants and Criminal Justice

This section collects the various Teacher's Comments that have appeared as pop-up options in the Project Story and Student Reflections segments of this exhibit.



A. Comments on Project Story

Survey Troubles

Racial Profiling

B. Comments on Student Reflections

Trouble Getting Through

On Working with Grassroots Organizations

On Lack of Structure and Changing Expectations

On Talking Directly with Immigrants

Survey Troubles

As the students make clear in their description, the heart of this project was a series of open-ended, semi-structured interviews. In addition to that qualitative work, however, Latinos Unidos decided to make one venture into survey research. Its plan was to develop a simple instrument that would fit on a single page, one that could be distributed at several local meetings the group hoped to convene over the course of the spring. The LU advisory committee thought such a survey might provide the organization with at least some rough idea about how Latino immigrants in our area saw the criminal justice system in general, and what they thought about some of the issues we were discovering. It might also help Latinos Unidos to identify people who had significant problems they wanted to discuss or longer narratives they would be willing to share in an interview.

As things turned out, the survey ran into many difficulties. By the time LU decided for sure to pursue it, the scheduled community meetings were fast approaching, so the final text was produced and translated into Spanish under serious time pressure. E-mail drafts were circulated in a process of drafting by committee, but without the luxury of time for full orderly discussion or deliberation. One of the students was especially frustrated because the student had some experience with survey methods that might have improved the outcome if there had been time for a better process.

At any rate, a pilot survey was produced, and Latinos Unidos distributed it at a community meeting. The experiment revealed many problems, especially given that people were asked to fill out the paper-and-pencil form on their own. When one of the law students and a member of the advisory committee struggled to summarize the results, they found that many of the completed forms had non-responsive or inconsistent answers. We were forced to conclude that many of the questions had not been understood.

Some problems no doubt came from translation glitches. I doubt that many people were confused by a few embarrassing but intelligible English-induced typos (for instance, our use of "imigrante" for the correct "inmigrante," or "systema" for "sistema"). But more people were probably left wondering by our literal translation of "criminal justice system" into "sistema justicia criminal." (We later ascertained that "sistema penal" would have been the correct translation.)

Beyond these concrete translation errors, however, we think many other questions lurked. Some members of the community have limited experience with written instruments, even in Spanish. And in any event, structuring questions so that a successful route through them can be reliably self-guided, is quite an art. Ultimately, we concluded that for Latinos Unidos to get meaningful results from this kind of document, the surveys would need to be filled out in a one-on-one or small-group setting where those giving the survey could detect misunderstandings and clear them up on the spot.

Of course, as teachers know, sometimes big methodological failures can be the best learning opportunities of all. This was not a *big* failure in any event, since it was only a small part of the overall project and did perfectly fine service as the pilot experiment it was planned to be. Further, we gleaned worthwhile anecdotal and qualitative answers from the open-ended question we had made sure to put at the end of the survey. But at least in terms of my own learning, I found the "failed" parts of the experiment were quite helpful. They allowed me to see in very concrete terms how a planned communication using the strange genre of a survey form can go at least temporarily awry.

Racial Profiling

Reports of racial and ethnic profiling that the law student team received from Latina and Latino immigrants in some communities were a cause of great concern to them and to me. It was disconcerting for our group, made up entirely of native-born white people, to hear that in communities near our homes, some people said they were having to get by in an atmosphere that we associated with life under a police state.

It was bad enough to hear people say that because of their race and language, they were being stopped and questioned disproportionately by the authorities-and often treated disrespectfully or worse in the process. But we also knew that for those who were undocumented, such encounters held the threat of more drastic consequences as well and therefore inspired even greater apprehension and anxiety than would otherwise have been the case.

Our concern was partly for the welfare and human rights of immigrants. (Although we began and ended the project with differences among us on some questions of immigration policy, all of us were clear that undocumented status does not and

should not strip an international migrant in today's world of all rights and legal protections.) Beyond our concern for the well-being and human rights of immigrants, however, we were also worried about our own. We were hearing from immigrants about an alarming situation. They were basically reporting to us about a world in which a racially marked and legally defined segment of the workforce was regularly subjected to intrusive and arbitrary police action of a kind that would not be tolerated if it were imposed on others. And this world was our own nation and neighborhood-right next door and down the street. It was hard for us to see how such a situation could fail to corrode the basic civil liberties and egalitarian values of society as a whole.

At the same time, we could see that attacking these practices, whether legally or politically, would be difficult. Few immigrants are willing to come forward with complaints about police treatment. Without people willing to tell their stories, how might one proceed?

(One important group of people who do voice objections to police encounters is criminal defendants seeking to exclude evidence found in the course of investigation and arrest. After all, since these defendants are already involved in a criminal prosecution, they have little to lose and much to gain by opening up these questions. Such objections have done little to increase the rights of those subject to police stops, however. The law that continues to emerge from a long line of complaints and test cases about the proper scope of police investigations and police stops is complex and increasingly unfavorable toward the criminally accused.)

Meanwhile, the atmosphere after 9/11 led to a situation in which profiling by national origin and religion was more widely practiced and more widely tolerated by public opinion. Before 9/11, a heartening consensus seemed to be building on two points, both among the public at large and within some important parts of the law enforcement community: first, that racial profiling (as in "driving while black") was commonly practiced in America, and second, that this was not a good thing and should be stopped. In my own view, it is important for Americans in the post-9/11 climate to defend and bolster that pre-9/11 consensus that had formerly begun to emerge around the problem of racial profiling. It is also important that we find ways to educate the public about ways that immigration and security issues are feeding into new forms of racism.

In any event, racial profiling is likely to be an issue that immigrants' rights groups in Tennessee target for special attention in the future, because it has such an immediate and palpable impact on the Latina/Latino community. Further, African Americans have labored under these practices for years, and have often led fights to expose and address them. The issue therefore provides a possible opening for principled coalition-building across racial and ethnic lines.

B. Collected comments on Student Reflections

Trouble getting through

The students involved with this project were amazingly diligent and flexible about seeking out interviews and figuring out ways to get information from people whose perspectives we wanted to hear. I was thoroughly impressed with the range of interviews they were able to secure for Latinos Unidos, and happy with the broad perspective that range afforded us. Nevertheless, as is plain from the students' comments in the Project Story, these kinds of interviews can be a headache to set up and carry out.

Law students generally are not well-positioned to play telephone tag, given that they are seldom in a daytime office of their own, rarely have someone who takes their messages, and live schedules that are chopped up into tiny disparate chunks devoted to carrying out highly focused tasks assigned on short time-lines by others. None of this is particularly conducive to structuring one's own semester-long project, or to pursuing a telephone contact who is not independently motivated to be reached on the matter at hand. Cell phones help, admittedly, but they do not solve these problems.

The immediate example of telephone tag is one instance of a larger phenomenon. Many law students seem to have a hard time connecting effectively beyond the four walls of the law school. In some cases, the cause has to do with skills. Many law students come to us with very little experience at what one of my colleagues calls "shaking the tree." So these days I try to be conscious of helping students appreciate the need for and the contours of such skills.

Skills, however, are not the only concern. I believe there are other reasons for the obstacles that many law students seem to encounter when given assignments that require them to venture out into new territory, make cold calls to possible resource people, or do other kinds of networking and outreach. The insular nature of legal education is partly to blame. Students enter our doors and are at once submerged in a totalizing kind of experience that makes communication with the outside world problematic in a whole range of ways, even for those who used to be relatively well-connected and highly skilled.

I have no magic advice to offer. I think it helps if the teacher talks explicitly about this complex of issues. I try to let students know that I appreciate the obstacles they are encountering, and I try to warn them early that special effort, preparatory research, creative initiative and dogged persistence are likely to be required. Increasingly, I point to the process itself as a learning opportunity. I observe that pursuit of sources takes energy and craft, and that the skills involved can be as important for lawyers as for journalists and social scientists. Even in semesters when I fear I have been harping too early and too often on themes like these, I am likely to get feedback from students at the end of the semester that they wish I had talked sooner and more clearly about them. It comes as a surprise to an amazing number of people how seldom one can just leave a message and wait.

On working with grassroots organizations

One of my strongest beliefs about the struggle for justice is that it must be infused with the voices, energies, and leadership capacity of people who are most directly and negatively affected by current arrangements. Otherwise, even best efforts will ultimately prove ineffective at producing meaningful change. If we want to see a society that is more democratic, egalitarian, and participatory, then the efforts we exert to get there must reflect and embody a commitment to those goals from the start. Accordingly, when searching out potential field placements, I am always on the lookout for grassroots groups that are working to organize among the marginalized and excluded because I want to offer my students the opportunity to work in these kinds of settings.

These are not easy times for such organizations. Funds are tight. Media entities are difficult or impossible to access. Many people are unhappy about how things are but have little or no hope that they can make a difference, and in any case have little time for civic involvement once they have taken care of the demands of job and family. In this atmosphere, grassroots organizations often find it difficult to attract members into active leadership and the demands of working together with others for a common cause.

Some law students with histories of working in these kinds of efforts are fully aware of these realities. I have learned, however, that many law students lack such histories. Some students, for instance, although genuinely interested in a particular issue and excited about working with a local group to address it, have always assumed that it would be easy to turn out large numbers of people for a meeting as long as the issue is going to affect those people, and one has taken reasonable steps to advertise the event.

I remember vividly the day several years ago when a student confided in me that she had expected several *hundred* people to attend a training for lay advocates interested in welfare reform. She reasoned that the issue was important and that the organization had aired radio spots; placed stacks of leaflets in local stores; posted fliers on church bulletin boards, in laundromats, and on key telephone poles in the neighborhood; and that it had made announcements at several meetings in the weeks leading up to the training. It seemed like a no-brainer to her that the hall would be packed. When "only" 15 people showed up, she was dumfounded.

Since then I try to do a better job of giving law students a concrete idea of the current climate for organizing and for civic engagement, and to explain the serious obstacles that many groups face in attempting to build membership-based organizations from the bottom up. I share with my students how important I believe it is for groups of this kind to have lawyers who understand what they are up against and who are prepared to join in the work of overcoming the obstacles that confront their efforts.

On lack of structure and changing expectations

I wish I could say that the problem the students point out here lies entirely in reality itself -- that people who want to work with grassroots groups and disadvantaged populations just need to learn to adjust to the fluid nature of work in such communities, to roll with the punches, to stay flexible, etc., etc. All of that wisdom would be true, of course. And I could also add accurately enough that law school schedules and law school culture do little to encourage the kind of adaptability and responsiveness that law students need to bring to these tasks.

But after many years of teaching, and many years of getting feedback from students, I can't avoid the conclusion that my own personality plays a role in how these things play out in my courses. If left to my own devices, I would quite likely redesign my course requirements several times during most semesters, always discovering how my original concept could be improved, as I saw how things unfolded. Perhaps two percent of the population would find this kind of liberating. The rest would probably be ready to pull every hair out of their heads -- or mine.

So I try hard to clarify course requirements, not only for the purpose of giving my students the information they surely need and deserve, but also to box myself in. For instance, I spell out time expectations in much greater detail than I once did. And I schedule planning sessions with each fieldwork team early in the semester, where the announced goal is to delineate the final product or event that will culminate the semester, and then start planning backward from that endpoint. Nevertheless, I know from experience that even what I perceive to be my firmest efforts at definitive structure will feel dangerously amorphous to more than a few students. And in any event I am likely to start trying to wiggle out of any constraint as soon as I create it, because some good reason to do so will always suggest itself.

The Latinos Unidos project entailed all these themes. My memory is that we sat down at the very beginning of the semester and began creating an outline of what a final report to the organization would look like. (I was so pleased! Such structure! Such clarity of expectation!) But the students are right; it took several meetings with our advisory committee before we reached provisional consensus. And several other twists and turns emerged before the semester was done. I probably could have done more to resist those changes that were initiated by our community partner, since I played something of an intermediary role between the students and Latinos Unidos. And it is more than likely that some of the changes were actually initiated by me or at least received my encouragement.

I imagine this is a tension that will dog me as long as I continue teaching. My basic strategy at this point is twofold. First, I put a lot of warnings on my course materials and convey them personally when students stop by to ask me about my classes. Second, I try to tame my own problematic tendencies through various kinds of limits and commitments that are stated publicly and at an early point in the course. A book called *Understanding by Design*, listed in the Resources section of the Teacher's Overview, has been a challenge and a help in this regard, because it suggests ways to wed efforts at better clarity and structure with the process of defining and achieving substantive learning goals.

On talking directly with immigrants

This is not the first time students have told me that their most significant learning experience during a fieldwork course came from an encounter like this. When I say "encounter like this," I do not yet have a precise definition of what I think is going on, but I have come to think of these junctions as "other side moments." The instances I am thinking of all seemed to involve (1) moments that were abnormal, outside the learner's accustomed physical and metaphorical territory; (2) moments that inverted -- or at least flattened -- some predominant presumed social hierarchy; and (3) moments that centrally featured person-to-person communication across a salient social divide.

In 1997 I co-taught a course with Appalachian scholar and activist Helen Lewis about welfare reform. This was at the time when Clinton's welfare reform program was lumbering into place, and people all over the country were trying to monitor and influence how states would translate the mandate to move single mothers from welfare to work given that the jobs available to women without a college degree are insufficient to support even a modest family budget in the real world. The main "other side moment" in that course took place at a weekend workshop at the Highlander Center, with which we opened the semester.

We invited several women from the region, white and African American, who had themselves been "on the system" of welfare at some point in the past and who had since gone on to become community developers and local leaders. We asked them to plan an educational program for our students for the Saturday sessions at the heart of the workshop, a program that would prepare them to study and understand welfare reform in our area. The women did so, and dazzled us all. Their methodology included sharing their own stories, providing a theoretical framework about the welfare state in Appalachia, warning people about emotions they were likely to feel in the course of our investigations, conducting interactive exercises in interviewing and debriefing from interviews, and providing open discussion.

Virtually every student in the workshop later mentioned those Saturday sessions as eye-opening, re-orienting, inspiring, unsettling, and tremendously important to the work they were able to carry out over the remainder of the semester. In terms of the criteria for "other-side moments" outlined above, please note, (1) The context was highly *abnormal*. (We spent an entire weekend together in a rural setting totally away from the law school. We lived in a dormitory-style setting rather than buzzing in and back out of the standard 50 or 75-minute module. We sat in Highlander's circle of rocking chairs rather than in law school seats. We sang and did theater games together in the evening, we mixed with a crazy assortment of Harvard law

students and Boston welfare rights scholars and activists whom Professor Lucie White had brought to join our workshop, and included in the circle were a number of past and present welfare recipients. None of these features was standard law school fare.) (2) The Saturday session was distinctly *inverted*. (The law students were not being invited to consider how they could best prepare to save or reform welfare recipients in need of their service, generosity and expertise. They were being put at the feet of past recipients and current low-income activists, to learn from them about the welfare system and efforts to change it.) (3) For most of the law students from UT, having a chance to interact with these workshop leaders was definitely *communication across a social divide*. (Few of the UT students had ever been on welfare as a child or adult, or had ever before spoken with a welfare recipient about such matters or about her view of the world. Later in the semester, each student was required to find some way of getting an interview with a person who was actually on welfare. This task turned out to be quite a challenge, and led to several intense conversations about why that particular assignment should so often have felt so hard to carry out.)

Past experiences with these kinds of other-side moments led me to tell the students in the project with Latinos Unidos that I wanted them to try to get interviews directly with immigrants at the very start of the semester, so that we could at least attempt to better ground our investigations in an immigrant-centered perspective. However, finding a way to connect with undocumented immigrants for free and open conversation poses special challenges even beyond the substantial ones that faced Helens and my students who sought out interviews with welfare recipients back in 1997. Language barriers, cultural differences, and the wariness that can accompany undocumented status are not small impediments.

One student involved in the Latinos Unidos project quite rightly reminded me that I should not take such difficulties lightly:

The project coordinator must have a realistic goal in mind and a sense of the community and people that his/her students will be dealing with. Expecting immediate interviews with immigrants, even when recommended by community leaders, is not a realistic expectation, given cultural and societal norms. Also, when working with people from many countries with many different concepts of time, family, and privacy, students need to be adequately briefed by their coordinator on what to expect (namely, the unexpected).

I take this advice to heart, and I am currently thinking about ways I can give students more concrete helpful advice when I send them out on their own quest for other-side moments.

On the other hand, I have also received feedback from students who have been lucky enough to find that great divides are -- sometimes -- less daunting to cross than one might imagine. Below, for instance, is an e-mail I received from a student in my Discrimination class (not a course that ordinarily involves fieldwork). We had recently done a unit on Latina/Latino issues in the Discrimination class, and I had invited any students who were interested to come to the Catholic cathedral to help welcome a busload of people traveling through Tennessee on the Immigrant Worker Freedom Ride. This student was one who took me up on the invitation. Here is her e-mail:

I would love to discuss my thoughts about the freedom ride event with you at some time. I think that for me it has created more awareness of immigrant issues. In fact, this afternoon while I was at work, I took a break to go get lunch. When I was at the deli, there was a Hispanic man sitting by himself. I smiled at him, and he smiled back, and then he asked if I was Hispanic. (I have had other people make this same assumption because of the way I look.) I told him no, but I sat and talked to him while I was waiting for my food.

He works construction in the Knoxville area and has lived here for 8 years. He has two sons in Vera Cruz, Mexico, one 5 and one 2 ½ (and has never seen this younger one). He became very emotional as we talked, and I could tell he really missed his family. After we finished talking, he told me that it really helped him to talk about his family and various issues about being in this country with other people. I really felt good that I stopped and talked with him. Had it not been for my participation in both this class and the freedom ride event, I don't think I would have done so.

Law Student Field Projects in Community Law

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MAIN MENU

project story

collaborator perspectives

student reflections

artifacts+images

teacher's comments

resources

related resources: Tennessee Immigrants and Criminal Justice

As most visitors to this site probably know, both the literature on international migration and the literature on criminal law are enormous. Likewise, a huge array of organizations is working to address these issues on local, national and international levels. Accordingly, this list does not pretend to give a comprehensive representation of the dynamic and rapidly expanding bodies of work associated with these themes.



Instead, it aims to provide site visitors who have an interest in the intersection between immigration and criminal law -- and between immigrant communities and local law enforcement -- with some starting points from which to begin exploring these topics from academic, advocacy, and organizing perspectives. The bulk of the entries listed here are national in focus, but the list begins with a compilation of resources for folks interested specifically in Tennessee, and it ends with a few more internationally oriented suggestions.

The list was developed from resources first identified by the three law students who carried out this project and was then substantially supplemented by Spring Miller in summer 2004. It is skewed somewhat toward items that are available on-line.

A URL address is provided whenever possible. The citation style is a hybrid format strongly influenced by legal citation practice, but designed to be accessible to readers outside the legal academy and to provide the information they will expect (although not always in the sequence or format to which they are accustomed). For citations to periodical articles, the number that precedes the name of the periodical indicates the volume. Issue number and page references follow the name of the periodical.

I. Immigrants and the Criminal Justice System -- Tennessee

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II. Immigrants and Criminal Justice Systems -- U.S.

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III. Immigrants and Criminal Justice Systems -- International Resources

A. Publications

B. International and Transnational Organizations and Projects

C. International Conventions, Treaties, etc.

I. Immigrants and the Criminal Justice System -- Tennessee

A. Publications

Dan Cornfield, principal investigator, *Immigrant Community Assessment*, prepared for Metropolitan Government of Nashville and Davidson County, Tennessee. (August 2003)

<ftp://ftp.nashville.gov/web/finance/immigrant-community-assessment-nashville.pdf>

Spring Miller, "[Latino Immigrants in Tennessee: A Survey of Demographic Statistics and Social Science Research](#)," prepared for Professor Fran Ansley, University of Tennessee College of Law. (June 2004)

"Defendant and Family Handbook." Provided by the Office of the Metropolitan Public Defender, 1202 Stahlman Building, Nashville, TN 37201.

"Manual de informacion importante para el acusado y su familia." Provided by the Nashville Public Defender's Office, 1202 Stahlman Building, Nashville, TN 37201.

B. Tennessee organizations and projects

American Civil Liberties Union (ACLU) of Tennessee
Nashville

<http://www.aclu-tn.org>

"*The American Civil Liberties Union of Tennessee (ACLU-TN) is dedicated to translating the guarantees of the Bill of Rights into realities for all Tennesseans .*"

Conexión Americas
Nashville

<http://www.conamericas.com>

"*Conexión Americas is the first Hispanic nonprofit organization serving the Hispanic community in Middle Tennessee in a comprehensive way. Our organization is fully staffed with bilingual/bi-cultural Latin American professionals. Our mission is to help Hispanic families realize their aspirations for social and economic advancement by promoting their social, economic and civic integration into the Middle Tennessee community .*"

Citizens for Police Review
Knoxville

<http://www.korrnet.org/cpr/>

"*CPR was organized to encourage and promote greater democratic participation in the issues that affect our lives; to promote,*

facilitate, and implement community self-determination; and to seek civilian accountability of local police. CPR monitors and documents local complaints of police misconduct. "

Highlander Research and Education Center
<http://www.hrec.org>

"The goal of Highlander was and is to provide education and support to poor and working people fighting economic injustice, poverty, prejudice, and environmental destruction. We help grassroots leaders create the tools necessary for building broad-based movements for change."

Latino Memphis
<http://www.latinomemphis.org>

"Latino Memphis is a non-profit advocacy organization promoting the advancement of the Latino community in Memphis and the MidSouth."

Latinos Unidos
<http://www.southernempowerment.org/>

An organization dedicated to the empowerment of Latino immigrant communities in East Tennessee.

Somali Community Center
Nashville
<http://www.somalinashville.org/>

"We are a non-profit community-based organization created to facilitate the transition of Somalis and other refugees of African origin to life in Nashville and in the broader American community."

Southern Migrant Legal Services
A Project of Texas RioGrande Legal Aid, Inc.
Nashville Office
<http://www.trla.org>

"Texas RioGrande Legal Aid, Inc. provides free legal services to indigent residents of South and West Texas and to migrant and seasonal farm workers throughout Texas, Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee."

Tennessee Immigrant and Refugee Rights Coalition (TIRRC)
<http://www.tnimmigrant.org>

"The Tennessee Immigrant and Refugee Rights Coalition is a state-wide, immigrant and refugee-led collaboration whose mission is to empower immigrants and refugees throughout Tennessee to develop a unified voice, defend their rights, and create an atmosphere in which immigrants and refugees are viewed as positive contributors to the state."

C. Selected government offices and agencies in Tennessee

Tennessee Attorney General's Office
<http://www.attorneygeneral.state.tn.us/>

Tennessee Council of Juvenile and Family Court Judges
<http://www.state.tn.us/tcjfcj/>

Tennessee Department of Safety
<http://www.tennessee.gov/safety/>

Tennessee Department of Corrections
<http://www.state.tn.us/correction/>

Tennessee Foreign Language Institute
<http://www.foreignlanguages.org/>

Tennessee Highway Patrol
<http://www.tennessee.gov/safety/thp.htm>

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II. Immigrants and Local Criminal Justice Systems -- U.S. Generally

A. Publications

Stuart Anderson, "The Multiplier Effect," a study by the National Foundation for American Policy, Washington DC (2004)
<http://www.nfap.net/>

Applied Research Center. *Reasserting Justice*. An activist's toolkit. (May 2003)
<http://www.arc.org/content/view/245/36/>

Anannya Bhattacharjee, "Whose Safety? Women of Color and the Violence of Law Enforcement," a Justice Visions Working Paper published by the American Friends Service Committee (2001)
<http://www.afsc.org/community/WhoseSafety.pdf>

Kevin Johnson, "The End of 'Civil Rights' as We Know It? Immigration and Civil Rights in the New Millennium," 49 UCLA Law Review (no.5) pp. 1482-1511 (June 2002)

National Immigration Forum, "The CLEAR Act and Homeland Security Enhancement Act: Dangerous Public Policy According to Police, Governments, Opinion Leaders and Communities." (April 2004)
<http://www.immigrationforum.org/currentissues/articles/CLEARHSEAQuotes.pdf>

Symposium: Migration Regulation Goes Local: the Role of States in U.S. Immigration Policy. 58 New York University Annual Survey of American Law (i3) pp. 283-407 (Summer 2002)
<http://www.nyu.edu/pubs/annualsurvey/html/issue.php?issueID=4>

Demetrios G. Papademetriou and Muzaffar Chishti, "Authority of State and Local Police Officers to Arrest Aliens Suspected of Civil Infractions of Federal Immigration Law." Migration Policy Institute (June 11, 2002)
<http://www.migrationpolicy.org/files/authority.pdf>

Melinda Smith, "Criminal Defense Attorneys and Noncitizen Clients: Understanding Immigrants, Basic Immigration Law and How Recent Changes in Those Laws May Affect Your Criminal Cases." 33 Akron Law Review (no 1) pp. 163-207 (1999)

Rebecca Smith and Amy Sugimori , *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*. Immigrant Workers Project of the National Employment Law Center. (Revised November 2003)
http://www.nelp.org/iwp/reform/state/low_pay_high_risk.cfm

Andrew Sum, Neeta Fogg, Ishwar Khatiwada, Sheila Palma, *Foreign Immigration and the Labor Force of the U.S.: the Contributions of New Foreign Immigration to the Growth of the Nation's Labor Force and Its Employed Population, 2000. to 2004*. Center for Labor Market Studies, Northeastern University, Boston, MA (July 2004)
http://www.nupr.neu.edu/7-04/immigrant_04.pdf

Norton Tooby, *Criminal Defense of Immigrants* . 3rd edition. Oakland, CA: Law Offices of Norton Tooby (2003).

Manuel D. Vargas and Marianne Yang, *Representing Noncitizen Criminal Defendants in New York State*. 3 rd edition Distributed by the New York State Defenders' Association, 194 Washington Ave, Suite 500 Albany, NY (2003).

Deborah Weissman, "Between Principles and Practice: the Need for Certified Court Interpreters in North Carolina." 78 North Carolina Law Review (no. 6) pp. 1899-1964 (2000)

B. U.S. organizations and projects beyond Tennessee

American Civil Liberties Union (ACLU), Immigrants' Rights Project
<http://www.aclu.org/ImmigrantsRights/ImmigrantsRightslist.cfm?c=96>
"The Immigrants' Rights Project (IRP) of the American Civil Liberties Union works to defend the civil and constitutional rights of immigrants through a comprehensive program of impact litigation and public education."

American Friends Service Committee Immigrants' Rights Program/Project Voice
<http://www.afsc.org/immigrants-rights/default.htm>
"The American Friends Service Committee is a practical expression of the faith of the Religious Society of Friends (Quakers). Through local-level service and advocacy programs, and through its national Project Voice initiative, the AFSC works to promote immigrants' rights and strengthen the voices of immigrant communities in policy discussions."

American Immigration Lawyers Association (AILA)
<http://www.aila.org>
"The American Immigration Lawyers Association (AILA) is the national association of over 8,000 attorneys and law professors who practice and teach immigration law. AILA is a nonpartisan, nonprofit organization that provides its members with continuing legal education, information, professional services, and expertise through its 35 chapters and over 50 national committees."

The Applied Research Center
<http://www.arc.org>
"The Applied Research Center is a public policy, educational and research institute whose work emphasizes issues of race and social change. "

Center for Immigration Studies
<http://www.cis.org/>
"The Center for Immigration Studies is an independent, non-partisan, non-profit research organization founded in 1985. . . . It is the Center's mission to expand the base of public knowledge and understanding of the need for an immigration policy that gives first concern to the broad national interest. . . . The Center is animated by a pro-immigrant, low-immigration vision which seeks fewer immigrants but a warmer welcome for those admitted. "

Citizens and Immigrants for Equal Justice
<http://www.ciej.org>
"CIEJ is a coalition of American/Legal resident families facing permanent separation due to the 1996 immigration acts AEDPA, and IIRIRA. "

Detention Watch Network
<http://www.lirs.org/What/partners/DWN.htm>
"The Detention Watch Network was founded in 1997 in response to the rapid growth of the U.S. immigration detention system ... [Its] members are concerned about the vast increase in the number of asylum seekers and immigrants who are subject to detention and about the lack of protection for the rights of those who are detained."

The Federation for American Immigration Reform
<http://www.fairus.org>
"The Federation for American Immigration Reform (FAIR) is a national, non-profit, public interest membership organization of concerned citizens united by their belief in the need for immigration reform. Founded in 1979, FAIR believes that the U.S. can and must have an immigration policy that is non-discriminatory and designed to serve the environmental, economic, and social needs of our country. . .FAIR seeks to improve border security, to stop illegal immigration, and to promote immigration levels consistent with the national interest—more traditional rates of about 300,000 a year."

Friends of Immigration Law Enforcement (FILE)
<http://www.fileus.com>
"Friends of Immigration Law Enforcement (FILE) is an association of attorneys, researchers, law enforcement officers,

legislators, and other experts working on behalf of Americans to ensure that immigration law is being enforced. FILE assists in filing lawsuits and complaints and helps Americans who have been harmed by our government's failure to enforce immigration law ."

National Council of La Raza

<http://www.nclr.org>

"The National Council of La Raza --the largest national constituency-based Hispanic organization and the leading voice in Washington, DC for the Hispanic community -- is a private, nonprofit, nonpartisan, tax-exempt organization established to reduce poverty and discrimination and improve life opportunities for Hispanic Americans."

National Employment Law Project (NELP)

<http://www.nelp.org>

"The National Employment Law Project (NELP) has advocated for over 30 years on behalf of low-wage workers, the poor, the unemployed, and other groups that face significant barriers to employment and government systems of support."

National Immigration Forum

<http://www.immigrationforum.org>

"The mission of the National Immigration Forum is to embrace and uphold America's tradition as a nation of immigrants. The Forum advocates and builds support for public policies that welcome immigrants and refugees and are fair and supportive to newcomers in the United States ."

National Immigration Forum's Community Resource Bank

<http://www.communityresourcebank.org>

A collection of immigration-related resources for local-level advocates and service providers. Includes fast access to Census statistics, examples of successful local advocacy campaigns, and contact information for local-level immigration practitioners throughout the country.

National Immigration Law Center (NILC)

<http://www.nilc.org>

"The National Immigration Law Center (NILC) is a national support center whose mission is to protect and promote the rights and opportunities of low income immigrants and their family members. NILC staff specialize in immigration law, and the employment and public benefits rights of immigrants."

National Immigration Law Center's resource page on state drivers' license policies and immigrants

<http://www.nilc.org/immspbs/DLs/index.htm>

Articles, toolkits, and other information regarding immigrant access to drivers' licenses.

National Immigration Project of the National Lawyers' Guild

<http://www.nationalimmigrationproject.org/>

"The National Immigration Project is a progressive source of information and legal support on immigrant rights. We are one of the few national-level groups that specializes in defending the rights of immigrants facing incarceration and deportation."

National Network for Immigrant and Refugee Rights

<http://www.nnirr.org>

"The National Network for Immigrant and Refugee Rights (NNIRR) is a national organization composed of local coalitions and immigrant, refugee, community, religious, civil rights and labor organizations and activists. It serves as a forum to share information and analysis, to educate communities and the general public, and to develop and coordinate plans of action on important immigrant and refugee issues."

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III. Immigrants and Local Criminal Justice Systems -- International Resources

A. Publications

Paul Amar and Cathy Schneider, "Cops: The Rise of Crime, Disorder, and Authoritarian Policing." NACLA Report on the Americas. September/October 2003.

http://www.nacla.org/issue_disp.php?iss=37|2

Anne James and Mark Warren, "Equal Protection: Consular Assistance and Criminal Justice Procedures in the U.S.A.: An Introductory Guide for Consulates." published by the International Justice Project and Human Rights Research. (July 2003)

<http://www.internationaljusticeproject.org/pdfs/VCCRguide.pdf>

B. International and transnational organizations and projects

Amnesty International

<http://www.amnesty.org/>

"AI's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights ."

December 18: Portal for the Promotion and Protection of the Rights of Migrants

<http://www.december18.net/web/general/start.php>

"DECEMBER 18 is an online organization named after the International Day of Solidarity with Migrants, initiated in 1997 by Asian migrant organizations. It was on December 18, 1990 that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was approved by the UN General Assembly. The mission of December 18 is to promote and protect the rights of migrants with dignity and respect as basic values. Our goal is to support the work of migrant organizations in the different regions by using the Internet as a tool for advocacy, networking and the dissemination of information."

Homies Unidos

<http://www.homiesunidos.org/>

"Homies Unidos is a non-profit gang violence prevention and intervention organization with projects in San Salvador, El

Salvador and Los Angeles, California. The organization was founded in 1996 in San Salvador and formally began organizing in the United States in 1997. . . .During our short tenure, Homies Unidos' core focus area has developed from relatively broad-based crisis intervention and support network for trans-national gang-affected families into a strategic, action-based, program."

International Justice Project

<http://www.internationaljusticeproject.org/overview.cfm>

"The International Justice Project works towards the development, coordination and increased employment of international law and human rights standards as they pertain to capital punishment."

International Labor Organization

<http://www.ilo.org/>

"The International Labour Organization is the UN specialized agency which seeks the promotion of social justice and internationally recognized human and labour rights ... The ILO formulates international labour standards in the form of Conventions and Recommendations setting minimum standards of basic labour rights: freedom of association, the right to organize, collective bargaining, abolition of forced labour, equality of opportunity and treatment, and other standards regulating conditions across the entire spectrum of work related issues."

Regional Conference on Migration

<http://www.rcmvs.org/>

"An intergovernmental forum of eleven countries in North and Central America devoted to sharing information and promoting dialogue on migration."

United Nations Commission on Human Rights, Special Rapporteur on the human rights of migrants

<http://www.ohchr.org/english/issues/migration/rapporteur/>

"The mandate of the Special Rapporteur on the Human Rights of Migrants was created in 1999 by the Commission on Human Rights, pursuant to resolution 1999/44. . . .The Commission requested the Special Rapporteur to 'examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, including obstacles and difficulties for the return of migrants who are undocumented or in an irregular situation'."

United Nations Committee on the Protection of the Rights of All Migrant Workers and Their Families

<http://www.ohchr.org/english/bodies/cmw/>

Monitors the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

C. International conventions, treaties, etc.

1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

<http://www.ohchr.org/english/law/cmw.htm>

1963 Vienna Convention on Consular Relations and Optional Protocols

<http://www.un.org/law/ilc/texts/consul.htm>

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Inmigrantes en Tennessee y el Sistema de Justicia Penal

Estudiantes de Derecho: McKenna Cox, Kimberly Pride, y Michael Wright.

En este proyecto tres estudiantes de derecho, aunando esfuerzos con una organización comunitaria Latina, llevan a cabo una investigación preliminar respecto de la relación de los inmigrantes y el Sistema de Justicia Penal en el área de Knoxville. Usando un enfoque de investigación participativo, los estudiantes realizaron reportajes a los efectos de obtener un panorama mas amplio sobre la interacción entre el Sistema de Justicia Penal y la comunidad de inmigrantes Latinos a los efectos de identificar áreas problemáticas específicas que faciliten el trabajo investigativo, organizativo, y de defensa.

Historia del Proyecto

Perspectivas de los Colaboradores

Reflexiones de los Estudiantes

Proyecto Artefactos e Imágenes

Comentarios de los Profesores

Recursos Relacionados

proyecto realizado durante la primavera 2004
exposición desarrollada durante el verano 2004

[In English](#)

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Practical tips on this methodology

a. Confidentiality in the context of the lawyer-client relationship

Preserving a client's "confidences and secrets" is one of the cardinal duties imposed on lawyers within the context of a lawyer-client relationship. With very narrow exceptions, lawyers are charged with maintaining the confidences and secrets of their clients, and we are ordinarily protected by the law in our exercise of that duty. This professional obligation of confidentiality, and this protection from required disclosure, extend not only to the lawyer, but to members of the lawyer's office staff, including law student employees.

In some field projects related to my courses, law students work under attorney supervision on behalf of a client to whom the lawyer is providing legal advice or representation. For instance, students of mine have drafted legislation on behalf of community-based organizations under the supervision of an attorney who was representing the organization. Others helped lawyers conduct advice and referral clinics during a temporary change in immigration law that created an advising emergency for immigrants' rights groups. In other cases, where I have the necessary expertise, I have undertaken the representation myself, and have acted as the supervising attorney.) In cases like these, where there is a lawyer-client relationship, if the client requests confidentiality, the student will be treated as part of the lawyer's staff and will therefore be bound by the strong rules governing lawyers. Part of my job as teacher is to make sure they are aware of this obligation.

In other cases, there may be no formal lawyer-client relationship. For instance, many of my students provide general legal information and plan broad educational events. They are not offering legal advice. (In fact, they are careful to remind their audiences that the information they provide is not legal advice and should not be relied upon as such.) In that case, no lawyer-client relationship exists, and neither the duties nor the protections of formal lawyer-client confidentiality directly apply.

Whether or not a formal lawyer-client relationship is established, however, I remind students that their identity as law students and future lawyers is likely to inspire a certain level of confidence and may raise expectations about confidentiality that I believe we should take into account. These reminders and suggestions are touched upon in the [Confidentiality Pledge](#).

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Practical tips on this methodology

b. Confidentiality in the context of research involving human subjects

As a research institution, the University of Tennessee has adopted an elaborate procedure for attempting to assure that all its researchers comply with federal law and ethical standards in the conduct of research involving “human subjects.” The basic idea behind these standards is that researchers should attempt conscientiously to anticipate both the risks and the benefits their research may entail for human beings targeted by the investigation, that researchers should avoid imposing risks that are on balance unjustifiable, and that any people the researchers study should be fully informed about the risks and benefits of the research and should give their informed consent prior to participation.

Definitions of “research” are generally quite broad in this context, extending significantly beyond examples like drug trials, which are paradigmatic of the research around which the standards were developed. For instance, many kinds of organized social science inquiry, qualitative and quantitative, in which researchers are interviewing, observing, or surveying people to learn about their experiences, opinions, or perceptions fall under the rubric of human subjects.

(1) Law students as ethics-bound researchers

Almost all law student field projects in my courses include some investigatory dimension in which students are listening to people, observing them, and learning from them. Even though many such interactions do not rise to the level of a formal research project, I believe the ethical concerns that lie behind the human subjects standards are still relevant. Although some people my students and I encounter in these projects are suspicious of our university connections, many others seem to have a ready trust us and in our process precisely because we are associated with an institution of higher learning. Therefore it is appropriate that we should heed the concerns behind human subjects protocols.

For a handout I have used in the past to make this point, [click here](#).

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Practical tips on this methodology

b. Confidentiality (or not) in the context of child abuse

Another context in which law students encounter questions of confidentiality -- and its opposite -- is situations in which they come to suspect that child abuse may have taken place. For instance, I have been sending law students into high school English classes for several semesters now, and last semester we had our first experience along these lines. A student in one of the high school classes where my students were doing law-related education began asking questions that strongly suggested she might have been assaulted by an older man in a position of authority. Eventually we learned that the incident in question had already been reported and prosecuted, with a criminal conviction resulting. But for a while, we thought the incident might not yet have been reported or otherwise dealt with, and we spent some pretty intense time considering what our moral and legal responsibilities might be. On the one hand, the law students were concerned about violating the student's confidence in them, and they took strong measures to avoid revealing the story inadvertently to other high school students in the class.

On the other hand, since the particular confidence in this case involved possible abuse of a minor, it raised an opposite problem as well. The students might have been under an affirmative legal obligation to report their suspicions, since Tennessee requires virtually everyone but lawyers to report child abuse and neglect to the government. And irrespective of legal duty, we were concerned about the student's welfare and wondering what would be best for her.

Having worked with staffers at the [Sexual Assault Crisis Center](#) before (see the exhibit on Jennifer Lichstein's [Spousal Rape](#) project), I thought they might be able to give us some appropriate advice. They were in fact very helpful, and came to the law school to brief us on how to handle such situations. They explained that they regularly conduct educational programming in the public schools, and that it is not unusual for a high school student to respond to one of their programs by disclosing to one of their presenters some experience with child abuse either inside or outside their families. The women from the Center also advised us that they never enter a school without having conducted a meeting with its administration to discuss the topic of child abuse and mandatory reporting, to identify a liaison person with whom they can respond to disclosures if they occur, and generally to agree on principles and procedures.

Next year, having seen how this issue could arise, I intend to raise it with students at the start of the semester, and I will provide some training before sending students into high school classrooms. But the judgments required in these cases can be harrowing, the individual and institutional interests can conflict, and the options available are often poor at best, especially in a setting like the one we were working in, where the young people involved are overwhelmingly low-income and of color and the resources involved are severely constrained.

In summary, then, the issue of confidentiality can come up in many different contexts -- that of a lawyer-client relationship, a researcher-human-subject relationship, or a case of suspected child abuse. And beyond these law-defined domains, there are many other instances in which unequal power relationships and social vulnerabilities will suggest that students should take care to protect confidences simply because it is the right thing to do. In any case, it is a good idea if teachers and students have had a chance to consider these issues before a crisis arises. I hope these materials will help some of you to do so.

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Emerging Lessons

B. Identifying good project settings (cont'd)

1. The community group has strong grassroots leadership, serious organizational capacity, and is in active motion on an issue or problem.

Having a chance to witness grassroots energy in action, to observe people articulating their own concerns and moving on their own issues, to witness concrete gains being made by a group that has worked effectively to build a powerful winning strategy against important odds -- these are opportunities that ground some of the most exciting and transformative experiences that field projects can offer students. They are experiences that can literally alter students' ideas about who people are and what they can achieve in this world.

It is not always possible to identify groups that clearly meet this standard. Democratic groups with strong leadership don't grow on trees in disadvantaged communities. These are difficult times for grassroots social justice groups, with funding tight and problems abounding at both the level of the street and the level of the globe. In addition, even the strongest groups have peaks and valleys in their levels of activity, and the rhythms of community research projects or action campaigns are not ordinarily designed to honor or accommodate the almighty semester that is so definitive of law school possibilities. Despite the difficulty, given my pedagogical goals, I am convinced it is worth trying hard to find placements that offer this strength.

Of course, placements are not all or nothing propositions. Sometimes a student may have an opportunity to work with an organization that is in the midst of a lull in its organizing activity, but has leaders who are articulate, savvy and inspiring. Or the leadership may be in temporary disarray, but the group has a dynamite campaign underway on an issue of great importance.

Even when a project looks like it will fulfill with flying colors this criterion of organizational strength and good timing, sometimes things just don't turn out that way. Disappointments may result from bad luck, weak leadership, powerful opponents, or something else entirely, but the effects can be demoralizing either way.

In any case, the teacher can make a difference by building in something of a safety net for times when a student's partner group hits general doldrums or simply has to postpone or scrap relevant plans. For one thing, assigned readings and audio-visual materials should include some coverage of inspiring and successful examples of action by democratic grassroots organizations, so that the power of this kind of activity is taken up in class discussion and is at least part of the students' vicarious experience. Readings about obstacles and difficulties faced by grassroots groups led by relatively powerless people can also help students put in perspective what they are learning from and with their partner groups.

Another precautionary strategy is simply to be sure that all students working with grassroots groups are given some warning about the degree of uncertainty that exists in the world of small non-profits and community-based organizations, and the kind of flexibility it requires of those who work with them.

In addition, the teacher, student, and community group may all want to plan some helpful and relevant "fall back tasks" that the student can turn to during a week when expected plans on the community side get de-railed. These should be tasks that the student can turn to quickly and can manage with little or no supervision.

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Emerging Lessons

B. Identifying good project settings (cont'd)

2. The community group has a good understanding of the needs, capacities and constraints of law student collaborators.

Groups that have never worked before with students often have several misconceptions that can be problematic. They may make the mistake of overestimating what students can accomplish in the time available and with the skills and knowledge base they already have. A group may underestimate the amount of time it will take the group itself to provide students enough information, orientation, and supervision to allow them to function well in the placement. In the specific case of students who are in law school, community groups may assume that such students will be willing and able to give free and competent legal advice on demand. Groups are unlikely to anticipate that the overwhelming majority of law students, even if genuinely enthusiastic and well-intentioned, will become unavailable and impossible to reach at the beginning of examination season.

Some of these predictable misunderstandings can be lessened by the teacher. Knowing where the gaps and friction points are likely to occur can enable a teacher to help community groups and students prepare to work with each other across their different situations and needs. For a sample hand-out prepared for prospective community partners in a course I taught, [click here](#).

But this preparation and cross-cultural negotiation is not simple. Some of the problems reflect real differences of situation and of interest that do not disappear as a result of mere communication, no matter how lucid or relevant.

One helpful move is to cultivate long-term relationships. A group that has worked with students before knows better how to decide if and when a particular project will benefit from law student contributions. They know what kinds of resources to commit to the partnership. They feel more confident about calling on the teacher for intervention or interpretation when things have hit a rough spot. They know good questions to ask on the front end, and good parameters to set for the project. In addition, when I am able to place students recurrently with a group over the course of several semesters or even years, the group and I learn more about each other's strengths, weaknesses, and idiosyncracies, and we can each adjust our behavior and expectations accordingly.

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Law Student Field Projects in Community Law

Teaching and Learning Portfolio

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B. Identifying good project settings (cont'd)

3. The project allows students to reclaim and enjoy “lost” skills and connections.

At some point in my experiments with field work, I began to notice that students who were able to use an old skill, call upon prior knowledge, or tap into community connections that were theirs from their lives before law school, often seemed to gain extraordinary energy and strength from this reclaiming. In many cases, this making of lost connections, or the reuniting with former selves, seemed to give students a way to fight back against the assaults on dignity and identity that unfortunately seem to be such a prominent feature of many people's experience of legal education.

I took the first few examples of this phenomenon to be a set of fortunate but patently non-replicable accidents. Today, however, I count this “past self” possibility as a predictor of success, and I consciously try seek out projects that I believe contain such possibilities. Current constructivist theories about the learning process support my sense that this linking back is important. These theories hold that a person’s newly-acquired knowledge is stronger, more useful, better mobilized and transferred into other domains, if it links to the person’s prior knowledge and builds connectedly upon it.

But I think the phenomenon I have observed is about more than facilitating new knowledge. Reclaiming lost connections gives some law students a way to feel stronger, more able to assert and enact their own identities and choices, less constrained by the sense that they are supposed to leave important parts of themselves at the law school door as the price of admission.

Finding settings that support this reconnecting and reclaiming process is complicated because it requires good matching between projects and individual students, not simply spotting a good project setting in the abstract. Matching usually cannot take place until the start of the semester, thereby limiting the extent of advance planning that can be done. Today, I am often on the lookout for interested students a full semester ahead of time, in hopes that I can spot good pairings and opportunities. But however lucky I get in this regard, there are always surprises.

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B. Identifying good project settings (cont'd)

4. Law and the legal system play an important role in the problem or issue that the community group is tackling.

Since law and the legal system structure and mediate virtually everything that happens in our society, this criterion may sound superfluous. After all, what social problem or issue that community-based groups might identify is *not* deeply affected by law? What solution or response they might try to mount does *not* in some way encounter law, whether as an opportunity or as a barrier?

So perhaps what I am saying is that I want the role of law and the legal system to be evident enough that students easily see the connection. The vast majority of my students are law students, and for them, I want a project that will help them think about their future roles as lawyers, and will give them an opportunity to look closely at law-in-action, in a situation where they are working collaboratively with lay people who can share with the students their perspective on what some particular operation of law means in the life of their community.

I sometimes teach non-law students as well in field work classes, and I am delighted when that is the case. But even then, I seek an evident exposure to law in the field project if possible. After all, the student decided to enroll in a law school class, and must be looking for that exposure.

On the other hand, I am not at all insistent that the students should play a traditional lawyer-like role in the work of the project. Many of the most effective and innovative lawyers working with grassroots groups are not role-bound in their thinking, but are willing and able to pitch in with a variety of tasks, to work collaboratively and non-hierarchically with people from many different backgrounds, and to value careful listening and observation outside a law-focused context. Such lawyers know that they have important legal skills and types of institutional access that they can bring to community efforts, but they do not overestimate what litigation or other expert-dominated advocacy can accomplish. I hope that my class will give students some exposure to these ways of working with community organizations so that they can decide for themselves if this kind of approach to lawyering is for them.

In some cases, of course, straight, high-quality legal work narrowly defined is precisely what is called for. Although my courses do not ordinarily involve direct representation of individuals, students working with community groups on projects are often asked to perform lawyering tasks for groups. For instance, an organization may need help with drafting, or with legal research on a concrete topic. As teacher I will need to help the student plan, carry out, and report on that research, recruiting a competent lawyer to supervise if the subject is beyond my own expertise.

Although virtually every project includes some need for legal research, often students work on projects where most of their activity is other than normal lawyer work. They may be pulling together census data or playing with children or learning how to do a press release or planning a bingo game that will help people get to know each other at a workshop on police-community relations. In many projects students will do some legal research once they find out what issues their community partner is interested in. But the main work of the project often focuses more on education and grassroots action -- translating the research into innovative forms that can spark lively dialogue and strategizing within the community about a larger picture of which law is only one part.

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B. Identifying good project settings (cont'd)

5. The problem or issue at hand is one that the student feels passionately about and perceives as a matter of justice.

Gerald Shenk and David Takacs (both of California State University at Monterey Bay, and both members of my cohort at the Carnegie Academy for the Scholarship of Teaching and Learning) teach a class in which they assign something they call a “Historically Informed Political Project.” One of the strict requirements for these individual projects is that each must focus on something that the student “cares passionately about.” (For more from Gerald and David, see their entries in the [Resources](#) section of this Teacher Overview.)

I loved this passion requirement when I first heard about it, for several reasons. Of course students put themselves more intensely and responsibly into a project when they care about it, and what teacher would not long for that? Further, the requirement helps signal to students that their own views and commitments matter and will be given space in the class, something that I believe is particularly important when the course touches on matters that the teacher herself cares about passionately.

But there are special reasons why I value the idea of a passion requirement in the context of legal education. Far too many students who come to law school drift into the belief that being a lawyer means having no commitments of your own other than service to whatever client is paying for your time. As Scheingold and Sarat put it:

[A] determination to privilege rationality and purge morality and emotion from lawyering figures prominently in legal education. It is, in effect, a quintessential rite-of-passage for turning talented laity into competent lawyers. Conversely, moral and emotional engagement – whether pro or con – is said to work at cross-purposes to service excellence.

Something to Believe In: Politics, Professionalism and Cause Lawyering, Chapter 1 (forthcoming at this writing in 2004). They relate this feature of legal education to the “profession’s core standard of ethical behavior,” one which they say “weds lawyering to political and moral neutrality and to technical competence.” *Id.*, Chapter 2. Charles Lawrence once described this characteristic of legal education as students being told that they must leave most of themselves and their identities “in a suitcase by the classroom door.”

Some say that legal education is changing now. They claim that observations like the foregoing have become outdated. But I think these descriptions continue to have much bite. In the law school setting, I therefore see it as especially important that I invite my students to bring their passions past the threshold. I want them to have to stop and ask themselves, right in the midst of their acculturation process, where their passions and convictions lie. I have had more than a few students genuinely stumped and disoriented by this question when they first hear it. On reflection, however, most of them find something to share that helps to identify a placement or project that makes sense for them.

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Provisional Guidelines for Service-Learning Grants from CPC Curricular Incentive Fund

1. *In awarding service-learning grants from the Curricular Incentive Fund, the CPC will give preference to research or action projects that involve a mutually respectful partner relationship with an organized community group.*

(Note that we would expect this preference to mean that proposals jointly developed and jointly submitted by a university teacher or student and a community organization have a greater chance of success than proposals submitted by a teacher individually.)

2. *The CPC will give preference to projects proposed with partner groups that are rooted in low- or moderate-income communities.*

(The broad nature of the terms used here is intentional. For instance, "community" could mean either a geographic community (such as Mechanicsville or Hancock County) or a community of interest (such as factory workers or residents of battered women's shelters), or some combination of the two.)

3. *The CPC will give preference to projects proposed with partner groups whose low- or moderate-income constituents actively set or participate in setting the group's policy and direction.*

(This guideline reflects CPC's commitment to democratic and participatory approaches to social analysis and social change. Although some valuable service learning could certainly take place in contexts where services are delivered to or through non-participatory groups, in a normal case CPC's priorities are otherwise.)

4. *The CPC will give preference to projects that appear likely to "succeed" both as service and as learning.*

Markers of likely success might include things like

a. *Relevance for pressing, real-world problems and solutions.* A work plan that involves participants in working on core problems facing low- and moderate-income people today, and that helps both partners to strengthen their respective capacities to fight for social justice and to help build healthy, flourishing communities.

b. *Relevance for the course.* A project that is transparently connected to the subject matter of the course and its reading list.

c. *Defined goals and objectives.* A proposal that sets out clear written objectives for both the service and the learning components of the project.

d. *Clear and realistic expectations.* A work plan that is clear and reasonable in terms of objectives (see above) as well as schedules, student work loads, roles envisioned for community partners and faculty, etc. Plans and expectations should take into account the stage of development of both the student and the partner group.

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Emerging Lessons

A. Figuring out what one is really after (cont'd)

Embedded assumptions and choices

Having set out above my definition of a “good” student field work experience, I want to observe that a number of assumptions and value choices are at work within it. Let me take a shot at surfacing some of those assumptions and choices for purposes of critical reflection:

This definition of good results expresses special concern and commitment to communities that suffer from social disadvantage.

It suggests that an important feature of disadvantaged communities is that they experience injustice, not mere misfortune, much less the simple just deserts of bad choices.

It voices a preference for grassroots organizations as an indispensable contributor toward healthy social and legal change.

It implies that learning by doing has advantages over learning only by reading and talking.

It endorses collaborative work styles, even across significant differences of background and privilege.

It implies that it is acceptable for a teacher to want to affect her students' ideas and behaviors beyond mere skills development or neutral knowledge acquisition.

Some of these value choices raise difficult questions for me about teaching and learning, and they are likely to raise questions for at least some readers. I try to anticipate and address some of these in a section below, “[On valuing and examining commitments.](#)”

At any rate, from the list of goals above, you can surely see what I mean when I claim to have difficulty distilling goals that are simple, transparent, and clearly focused! I aspire one day to a list that is more concise and lucid. In the meantime, I will close this segment by sharing three goal statements from teachers who have been more successful than I in refining their objectives. All three come from members of my cohort at the Carnegie Academy for the Scholarship of Teaching and Learning, and all three reflect the work and thought of many years. I see them as models worthy of contemplation by other teachers who are seeking to discern their own most deeply considered and practically stated objectives for student learning.

As history teachers one of our most important goals is to encourage our students to use their historical knowledge to become more effective, self-aware, and ethical participants in the civic lives of their communities.

Gerald Shenk and David Takacs, Cal State Monterey Bay

When students move beyond a position where they are simply recipients of "truths" from a professor, through relativism where they see knowledge as uncertain or valid only within a context, to a position where they accept responsibility for their judgments of the past and present, I have been successful.

Vernon Burton, University of Illinois

I now see the core task of higher education as explicitly fostering the students' abilities to take evidence-based, values-grounded stands on important issues and to commit themselves to acting in ways that make a difference.

Craig Nelson, University of Indiana

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Organizational Profile

1. Name of the organization: _____
2. What is the group's purpose or mission?
3. When was the group formed and why?
4. Is the group incorporated? If so, is it for profit or non-profit? Does it have any recognized status with the Internal Revenue Service, such as 501 (c)(3) or 501 (c)(4)?
5. What is the group's internal structure? For instance:
 - Is it an agency or a membership organization?
 - Does it have a board of directors? (If so, how many and what sorts of people?)
 - A paid staff? (If so, how many, and with what titles?)
 - General members? (If so, how many, and what sorts of people or groups?)
 - Who makes what decisions?
 - Who is accountable to whom?
6. What is the size of the group's annual budget? Where does it get its funds?
7. Does the group:
 - provide direct service to individuals in need?
 - engage in advocacy work?
 - (If so, does it mobilize grassroots people in support of the advocacy demands, or does it rely more on staff, experts, and/or professionals?)
 - organize people for direct action?
 - carry out community development activity?

If the group uses more than one of these models of addressing community need, which one would you say predominates?
8. Does the group "have" a lawyer? If so, what is the relationship between the lawyer(s) and the group? (For instance, is the lawyer on staff? On the board? A member of the organization? On retainer? Pro bono? Fee-for-service? Collaborating in some other way?) Is the relationship satisfactory to the group? Do they wish they had more access to a lawyer's time and knowledge?
9. Has the group ever worked with law students as volunteers or interns? If so, how did it work out, from the group's point of view?
10. Does the group have any relevant stories – good or bad -- about the role played by law, lawyers, or the legal system in the life and work of the organization?
11. What is a past accomplishment or event or practice that the group is particularly proud of or happy about?
12. Who provided this information? Is there anything else they want you to know?

Time Expectations for Fieldwork Classes

The law school expects that a student will normally spend 1-3 hours outside of class preparing for every one hour in class, and I personally expect my students to work in the “high half” of this range, that is, 2-3 hours outside of class preparing for every one hour in class. This means that a three-credit course carries the expectation of 9-12 hours per week of student time (3 hours inside of class and 6-9 hours outside of class). In my three-credit courses where fieldwork plays an important role, I usually translate this formula into something like the following as a normal weekly expectation, though of course there will always be some play in the joints:

In Class:	2 hours per week in class
Outside of Class:	7 - 10 hours per week outside of class
	– 1 hour per week meeting with team and/or professor
	– 1 - 3 hours per week reading/writing for class
	– 3 - 8 hours per week on field work
Total in and out:	9 - 12 hours per week

In this course I will ask you to keep track of your time. Believe me, I know time sheets can be a real pain. On the other hand, many lawyers have to keep track of their time in practice, as I am sure you know – often to the tenth of an hour. The requirement may have to do with charging billable hours to paying clients, or it may have to do with administering a grant from a public interest funder, or it may simply be that the firm or organization the lawyer works for is trying to figure out how lawyers are spending their most precious resource. In any case, time-keeping requirements are widespread. So consider it good practice.

Besides, there is another reason that I think it will be in your own self-interest for all of you to keep good records of your time and how you spend it. This other good reason has to do with my own expectations about time.

The truth is, that although intellectually I understand and endorse the above time expectations, I actually have quite a hard time accepting them! For instance, I hate thinking that 3-8 hours might be all you can put into field work in a week, or that because of your fieldwork obligations you don't have time to read many wonderful pages of stuff that I would like to assign. To make matters worse, I also tend to inflate what it is possible for a human being to achieve in 3-8 hours. Not to mention that I would rather not face the fact that sometimes other courses or outside obligations will have to take priority in any case.

Why do I have such a hard time with all this? Two main reasons, I think. First, the fieldwork we undertake in this course is significant. If the projects were trivial, or if we only did work with community partners that didn't really need us all that much, it might be different. But projects that focus on important issues, with partner groups that are both deserving and under-resourced, are often the kinds of projects that could use not only the full 3-8 hours per week that I outline above, but a lot more. Under these circumstances, my desires as a teacher can begin to expand unrealistically without my realizing it. A second reason why I have a hard time accepting the above limits is that I am an inveterate optimist about what it takes to get things done, so on the front end of a project I often think that it will be easier and quicker (for me and for everyone else) to do things than actually turns out to be the case.

I am telling you all this because I hope it will help you understand that my motivation in setting out clear time expectations and requiring that you track your time is to help impose a two-way discipline -- a discipline that operates on you, but on me as well. I want to be sure you put in the time that is expected, and I want to be sure that my own assessments of your effort and achievement are made within the ground rules set here, and not on the basis of an unconsciously expanded standard. Attached to this handout are weekly time sheets for the semester.

Ways a student might spend time outside of class in a fieldwork course

(1) **Preparing for class** by doing readings and other assignments related to class

(2) **Doing the fieldwork.** Listed below are examples of fieldwork activities. Note that these are not intended to suggest a linear sequence. A good project will usually involve some of these activities circling back on each other in repeat spirals and feedback loops.

a. Listening and learning

- find out about your community group/site – its history, structure, issues, etc.
- hang around informally with your community group to build understanding
 - attend committee or membership meetings
 - volunteer in some helpful way not directly related to your project
 - talk with staff or members
- listen to a person from the community tell about his or her life, issues, experiences, etc.

b. Researching law or facts

- find what questions your community partner has related to your project
- articulate questions of your own about the issues and realities you are finding
- carry out research to get answers to priority questions
 - do standard legal research related to the questions
 - locate social science and other empirical research related to the questions
 - conduct your own original research (interviews, counting, observing, mapping, etc.)
- include your community partner in the research if possible and desirable

c. Educating and communicating

- Communicate your research results to the group and its members in creative, appropriate ways
 - give an in-person report to a staff member or to a meeting of the group
 - prepare a written report for the group (or maybe visual, theatrical, musical, etc.?)
- Put on a public educational event or activity (this means plan, practice, conduct, and document)
- Prepare by finding out about educational methods appropriate for your target audience
- Evaluate your report or event (include input from others)

d. Taking action

- Work with others to identify group or individual action steps based on what has been learned
- Help to carry out appropriate action

e. Planning all the things you do on the project (see above and below)

f. Reflecting on all the things you do or learn, and how they relate to each other

- Ask yourself hard questions about the project, the world, your role, etc.
- Observe, compare, contrast, predict, analyze, synthesize, choose, propose, sum up
- Consider how course readings or class discussions relate to what you are finding
- Organize a reflection or assessment session with others involved in your project

g. Documenting all the things you and others do on the project

- Take still photos or record audio/video of activities (getting consent)
- Draw pictures, charts, diagrams, maps
- Get written or other recorded reactions from participants
- Keep copies of written materials (correspondence, lesson plans, fliers, memos, etc.)
- Write regularly in your project journal, and do it while things are still fresh

Name: _____ For week of Mon. _____ to Sun. _____

Time Record for Fieldwork Course

Short, sweet and approximate are the operative words here. Turn this time sheet in by Monday of each week. Include time in class, class preparation, and field work. For more on what counts as “fieldwork,” see the back of the handout on Time Expectations.

Day	Activity	Time Spent
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

(The expectation is that in a normal week you will spend 9-12 hours on this course. Include time spent in class, preparing for class, travel to and from your project site, time spent filling out this form, etc. Please do your own calculation of the total hours.)

TOTAL: _____

Excerpt from Course Description of Community Legal Education

Introductory overview

. . .

Among lawyers interested in working with low-income people and grassroots community groups, there is a growing interest in community legal education as an important part of what poverty lawyers and community lawyers need to do. Sometimes this emphasis is one aspect of the general attempt to “make do with less” in the current climate of austerity in social programs. (With the cuts in funding for legal services lawyers, and with deepening hardship in many locations, more and more people who cannot afford to pay for legal services will have to represent themselves or forego their claims and defenses altogether. So some people have stressed know-your-rights education as a way to help prepare people to represent themselves under conditions where there is a shortage of professional representation.)

In other instances, advocates of increased community legal education are less interested in helping people deal with their individual cases, and are more interested in doing education that helps people analyze and act on their problems as an organized group. This strand of community legal education is interested not so much in “service delivery” as empowerment, capacity-building, and organizing for social change. It tends to stress education less as a route to individual well-being, and more because it is a necessity for those who want to build strategies for achieving social change.

Of course these two strands – education to help people resolve their individual problems, and education to help people organize for social change – are not always so neatly separated. In fact, some very innovative work in recent years has involved combining these two approaches. One immigrants’ rights group in New York, for instance, has lawyers on staff who represent individual workers in claims for unpaid wages and other violations of the Fair Labor Standards Act, but the organization is also heavily involved in organizing, lobbying, and engaging in direct action. Its entire program is suffused with different kinds of educational activities about people’s rights and ways that the legal system affects the group and the lives of its members.

In any event, many lawyers who are doing community legal education have begun to borrow and learn from non-lawyer educators, and they have discovered both domestic and Third World traditions of grassroots education for bottom-up social change. These are rich traditions with many variants, but they also have much in common and generally go by the name “popular education” (or in Spanish, *educación popular*). Most of these traditions share a critical stance toward mainstream schooling because they believe it has a tendency to reproduce and reinforce the status quo. Most have stressed the importance of anti-authoritarian and interactive methodologies, with conscious attention to accessibility for adult learners who lack much formal education. Most tend to celebrate local experience and local knowledge and to question the role of outside experts. Accordingly, when these values are transposed into the sphere of community *legal* education, they can have the effect of forcing

a re-examination of the lawyer's role.

My aim for our project this semester is for us to read and talk together about some of the theory and practice of “community legal education for social change” while actually trying to *do* community legal education with partner groups rooted in two different local constituencies – residents of public housing developments who want to understand more about police practices in their neighborhoods, and migrant workers whose children are enrolled in Migrant Head Start programs in several surrounding counties. By definition this work is likely to immerse us in the messiness of actual contexts. We will be trying to figure out ways to insert ourselves into processes that are not structured by semesters. We are likely to find ourselves dealing with “moving targets,” since the schedules, priorities and even the key players in local groups have a frustrating tendency to change without regard to the needs of university partners.

These likely dynamics will probably make our lives harder on occasion. On the other hand, they will give us invaluable opportunities to be dealing with “the real thing.” If any of you want to work in the future as a staff attorney/educator for a community-based organization, or if you ever want to volunteer some of your pro bono time to a community legal education effort, these are precisely the dynamics you will likely encounter in those situations as well. Some tolerance for disorder, and an ability to respond creatively to unfolding opportunities will stand you in good stead.

Well, that was all a bit more long-winded than I originally intended. Without further ado, here are some details about course administration . . .

Some Assumptions behind this Course

I have been doing some reading recently about “critical thinking,” and it has made me particularly aware of the importance of working to become conscious of underlying assumptions at work in the legal system or educational system – the beliefs and taken-for-granted views of the world that lie behind many of our laws and policies and institutional practices. My reading has also made me aware of the importance of bringing my *own* assumptions into conscious view.

That awareness in turn has led me to think that it would be a good idea for me to share with you what I believe are some of the assumptions that lie behind my own design of this class. Of course, the idea is not that you should agree with any or all of these assumptions, although knowing what they are may help you decide whether this is a class for you. Instead, by articulating some of my basic assumptions about matters related to this class, my hope is that those assumptions will become more transparent and open to your critical consideration, that the process might help you to think about your own assumptions about these matters, and that in any event, some of the decisions I make about structuring and guiding the class over the course of the semester will be more understandable to you.

So here goes. These are what I believe to be some of the key assumptions at work in my vision for this class:

1. Our contemporary society, both American and global, is characterized by pervasive and unconscionable inequalities of opportunity, life circumstances, and power – inequalities that strongly track divisions of race, gender, economic class, language and nation.
2. By combining grassroots organizing, mass mobilization, and carefully designed legal strategies, people in many parts of the world over the last couple of centuries have won some important and admirable high-profile reforms aimed at guaranteeing legal equality to traditionally subordinated groups, and broader rights of participation in decision-making. Such victories include the spread of formal universal suffrage to vast numbers of people around the world, and the ending of many overtly unequal and violent regimes, such as the caste system in India, the rule of Jim Crow in the U.S. South, and apartheid in South Africa.
3. Nevertheless, many areas of “formal” inequality remain (that is, areas in which the rules are overtly unequal). It is especially common to find formally unequal regimes applied to indigenous people and to women around the world. Beyond these types of difference in legal forms, huge differences of actual condition and life chances continue to exist, and group-based inequalities continue to reproduce themselves perniciously in succeeding generations even under the facially “neutral” legal regimes that have followed victories for formal equality.
4. Not only have inherited hierarchies persisted even after the demise of many formally unequal systems, but disparities in wealth, power, and knowledge, both within and among national states,

are rapidly increasing. Further, the wider the gap between haves and have-nots becomes, the more difficult it is for the have-nots to effectively mobilize for meaningful change, and the harder it is to achieve democratic control over momentous decisions that are affecting everyone on the planet.

5. The inequalities and disparities described above should matter to thinking and caring people, both for reasons of social justice and for reasons of social peace.

6. Law plays a powerful role in maintaining and legitimating inequality, but law can also play a powerful role in challenging and transforming it. And at any rate, a sophisticated understanding of how the legal system works is of great value to anyone who wants to bring about social change. Lawyers therefore have significant contributions to make toward efforts to challenge illegitimate hierarchy and efforts to bring about a more egalitarian order.

7. Law schools should therefore bring questions of legal, social and economic inequality to the attention of law students, should encourage students to consider their present and future responsibility, both as professionals and as members of civil society, not just to provide charitable pro bono services to the needy, but to help end oppression and inequality. They should also work to provide students with skills and experiences that will better equip them to do all this. True, this is not a neutral stance for law schools to take, but neutrality is not really an option. Schools that do not question inequality, that train students only to succeed as individuals within an unjust system, are making a decision to reinforce the status quo.

8. Lasting and meaningful change that significantly redistributes power and resources will not be given as a gift from the haves to the have-nots, but must be achieved in large measure through mobilization and organizing from below. Accordingly, more law students and lawyers should become involved in modes of lawyering that focus on bottom-up empowerment of grassroots groups in workplaces and communities. This sort of lawyering is characterized more by collaboration and mutual learning than by top-down, expert-dominated relationships and work styles. It deploys multifaceted problem-solving that is not confined to narrowly legal approaches. The design and execution of lay legal education (or “community legal education” as we are calling it in this class) often plays a central role in this sort of lawyering.

9. In the search for teaching methods that are effective tools for an empowering kind of action-linked education for and with people from subordinated communities, lawyers and others involved in community legal education should draw upon the important knowledge base already gathered by educators from various spheres, including the following:

- Teachers of “adult basic education” in the U.S., a world that includes literacy teachers, GED teachers, and teachers of English for speakers of other languages (ESOL), a profession that has developed significant expertise in how adults learn and methods that are successful with groups that have experienced failure and frustration in formal schooling;

- Practitioners of “popular education,” a tradition of adult education for social change with strong roots in Latin America (hence the term popular education, taken from the Spanish

educación popular) and elsewhere in the global South, but with important and expanding instances in the global North as well, including Tennessee's own Highlander Research and Education Center near Knoxville, the site of our upcoming workshop;

- Lawyers who have worked in various ways to develop “know-your-rights” presentations, ranging from the more traditional one-way, talking-head lecture, to more interactive and creative approaches, better informed by pedagogic and cognitive theory; and
- Artists, who know that emotion, creative expression, and cultural sharing can unlock the doors to learning.

10. Becoming rich and acquiring social prestige are not admirable goals for a human life, nor is achievement of those goals particularly likely to assure personal happiness. Legal education ought to do more to give law students varied glimpses of alternative aspirations.

Some Alternative Assumptions

Of course, my assumptions are hardly the only ones that a person might consciously or unconsciously adopt in this situation. I thought it might be interesting to sketch out some sample alternatives, any or all of which a given individual might prefer to any or all of the ones I identify above. Surely the list below does not exhaust the field.

1. Our contemporary society does have some inequality, but it is not such a terrible thing. Inequality is not as bad as Ansley suggests, because in most cases it is temporary in two important senses. First, any given individual's position in society is not fixed, but can change. In fact, there is lots of upward mobility in the system. Second, as the economy grows and thrives, the pie expands for everyone, and wealth realized “at the top” of the system trickles down, thus diminishing the gap between haves and have-nots without penalizing those at the top whose creative and risk-taking investments are what create wealth in the first place, and without whose contributions the whole system would regress.

Actually, the existence of inequality is in many ways a healthy thing. Scarcity is an important motivator of activity. Hunger for a higher standard of living is an incentive that induces productive behavior. Without this competitive drive, growth would grind to a halt, and everyone would be worse off.

2. The growth in formal legal equality is indeed a great achievement of recent centuries. However, mass mobilization of the lower classes had less to do with it than did the work of educated, reform-minded professionals and experts. Further, free markets favor meritocracy over aristocracy, and the triumph of the free market has had a natural tendency to produce liberal democratic forms of government which prize formal equality.

3. It is true that even after formal equality is achieved, some scars and setbacks of the past still have an effect. But the best solution for this problem is patience. It is foolish to abandon principles of neutrality or to create taxpayer-funded programs that breed dependency just because things have not changed overnight.
4. The gap between haves and have-nots is exaggerated. Just look what a high standard of living even poor people have in America today, as measured by things like televisions, air conditioning, and automobiles. Further, Ansley makes a really big mistake when she starts to talk about exerting “democratic control” over the economy. Her approach is basically the road to socialism. It condones and celebrates political interference with the market, which is far better left in its free and natural state.
5. Certainly “thinking and caring people” should be concerned about global inequality, especially to the extent that significant numbers of people are trapped in true poverty. But critics should avoid being sentimental or naive in a way that hurts the very people they say they are trying to help. They should face the fact that global economic growth is ultimately the best cure for poverty, and global economic growth should be left to those who have already shown they know how to produce it.
6. Law does play an important role in assuring stability in society and also enabling gradual change. But this doesn’t mean lawyers need to jump into every law-related endeavor in society. Lawyers should stick to professional behavior, making and interpreting laws or contributing their technical skills to the process of incremental reform. It is both inappropriate and inefficient for lawyers to run around playing at being organizers or agitators (much less performing artists!). The level of legal education needed by most grassroots groups can be met through paralegals or other non-lawyers.
7. Law schools have no business pushing any particular analysis on the student body. Their purpose is to provide skills training to people who want to be lawyers, not to brainwash students. They should alert students to the pro bono obligation imposed upon them by the ethical rules, just as they alert them to other aspects of their professional responsibility. But beyond that, schools can and should be neutral. Law students will and should decide for themselves what their values and priorities are, and whether they think there is a need for some kind of social change. Schools should not allow, much less encourage, faculty members to push their politics and personal preferences under the guise of “public interest” or “pro bono.”
8. Important social change is more likely the product of competition and debate among a society’s educated classes, and the result of outstanding individual leadership, than it is the product of mobilization or pressure from below. Even if it were not, lawyers who want to help bring about social change should stick with lawyering. That is what they are trained and paid to do, and that is the most efficient use of their time and the social investment that has been sunk into their training.
9. Lawyers should make use of all kinds of teaching methods. There is nothing wrong with that. But they should maintain a dignified and professional demeanor that inspires respect for the bar. They should not try to deny their special training and superior knowledge, or hide behind some wishful fantasy of interdisciplinary egalitarianism.

10. Wealth and prestige are important sources of material reward and personal satisfaction in our society. In addition, much good is created by the productive efforts of people who are striving to acquire these things. Law schools should not try to dissuade law students from making the personal acquisition of wealth and prestige their primary goals, not only because such efforts will fail, but also because they *should* fail. We need the energy and high quality performance inspired by people's quest for personal advancement. Further, Ansley's moralistic and pious assumption suggests a false dichotomy. There is nothing to prevent someone from doing well and doing good at the same time.

By the way, what are some of your own assumptions? Can you generate "devil's advocate" alternatives to them?

More Guidance on Your Final Reports

Each of your Final Reports will be different, tailored to the nature of your particular fieldwork and to the questions and concerns you bring to it. Each student or team should meet with me to develop a plan about your specific project, but here are some general guidelines that I believe will apply to all Final Reports.

Your grade in the class will be based fundamentally on your fieldwork. However, exceptionally strong or exceptionally weak participation in class activities and discussions could raise or lower that basic grade by as much as a full letter grade.

Although I hope that I will be able to observe many of the fieldwork activities carried out by people in the class, I expect that will not always be possible. Accordingly, your Final Report will be the main vehicle through which I can understand and evaluate your fieldwork. It will be the main “window” through which I look.

This probably goes without saying, but let me be clear that “failed” projects are not necessarily failed learning experiences. We often learn more from mistakes well-evaluated and pondered than we do from smooth successes. Accordingly you might produce a terrific Final Report even though your effort at community legal education was filled with problems that distress you. Similarly, you could pull off a successful event in the community, but produce a mediocre report that didn’t document the event very well, or that failed to reflect thoughtfully on the issues or to distill helpful lessons from your success. The former sort of report would get a better grade than the latter, even though you would certainly receive some credit for the successful event.

1. Narrative and reflection

This section of your Final Report, which each of you will produce individually, should tell the story of your fieldwork and should reflect upon your fieldwork experience in light of what we have read and what we have discussed or done in class, at the Highlander workshop, etc.

As you can see, there should be a narrative and descriptive aspect to this section (where you tell what you and others did, and generally what happened with your project). These narratives may vary tremendously, of course. But each of them should include:

Some description of what you learned in the “listening/learning” phase of the project.

Some joint evaluation or assessment of the project that you develop with your community partner toward the end of the semester. The evaluation might be developed through a formal evaluation session or in a brief telephone call, but it should reflect some interaction and (hopefully) points of consensus.

There should also be a more reflective and analytical aspect to this section. Many times students are a little intimidated about what they should do in reflecting and analyzing, so here are some ideas about what you could do in the reflective and analytical component. No one paper would do all of these things, of course, they are just possibilities:

Using the readings to more deeply understand and evaluate your own efforts -- You could discuss ways in which a reading that we had helps you to understand or think about a problem you encountered in your fieldwork. Perhaps one or more of the readings provide a context or categories or principles that you find helpful in looking back on your work.

Using your own efforts to more deeply understand and evaluate the readings -- You could discuss how an experience you had in your fieldwork causes you to question or doubt or reconsider or criticize something (or several things) you read in one of the assignments.

Using comments from other students and partners -- You should also feel free to refer to and utilize discussions we have in class, or comments made by fellow class members or by community partners. In other words, you can treat these discussions and comments as “texts” that may aid understanding, or texts that you want to reconsider or critique.

Examining pedagogical issues -- You could do a close “micro-examination” of a particular event in your fieldwork – maybe one interaction in which you were listening and learning, or one effort at planning or facilitating an educational activity, and you could compare that experience or effort to a pedagogical structure, sequence, strategy or approach that is recommended in the readings, and then try to decide what that close comparison shows you about your own practice or about the recommended practice.

There is one required subject of reflection -- Somewhere in the reflective part of your Final Report, please include some attention to the role of “law-related education” with disempowered communities. You could try to draw conclusions from your fieldwork or your readings about the role of law, lawyering, and the legal system in the lives of your community partners and people like them. Is “community legal education” a good way for law students and lawyers to spend their time? Are community people interested in this kind of education? Do they benefit from it? How and why (or why not)? Do you see yourself doing this kind of work in the future?

In general, feel free to include non-legal materials in your narrative and reflection. If you decide to keep a teaching journal, you could include excerpts from that here. You may quote poems and songs, or tell about relevant incidents in your own life.

2. Showing your fieldwork

Your Final Report should also include some way of representing or embodying or displaying your fieldwork. In some cases you will be producing physical objects for and/or with your community partner, and copies or pictures of these products could just be attached. (For instance, some of your projects may include producing a written lesson plan, or an “opinion letter” appropriately designed for your audience, or handouts or posters, or a painting.) In other cases you may arrange for a workshop you conduct to be captured as it takes place -- maybe on videotape, or in still photographs, or on pages from a flip chart, and these “capturings” could be attached. Some of you may get press coverage. Some of you may interview your students afterwards to get their impressions, and you could write up their comments.

Whatever it is that you do for your fieldwork, you should think about documenting it in some way, capturing it in a form that can be included in your Final Report. Your grade will be based in part on the work itself not just this representation of your work, but this is your chance to *show* the work so that it can be seen and understood by others who were not present as it was taking place.

3. A Lawyer-to-lawyer Exit Memo

Your Final Report should also include an Exit Memo written as an aid to me and to any future law students who end up working with your community partner or with a similar group in a community legal education project. The exit memo should include:

- a. Any advice you have to offer about doing this kind of work in general or relating to this particular partner or community constituency.
- b. A research report on the underlying legal issues that you researched for the project, together with citations to relevant authority. Unlike your work in the field with your community partner, you do not have to face the challenge of pitching your report to a lay audience. To the contrary, you should assume that this memo will go to law-educated readers who will want to know how they can find and update the relevant sources.

Evaluation of Community-Based Fieldwork Input from Community Collaborators

Name of person or group working with student: _____

Name of student being evaluated: _____

Person(s) completing evaluation form:

Name: _____ Phone: _____

Dear Collaborator: Please answer the following questions however you think best. You may explain in your own words. You may also rate the student's work on a scale of 1 to 5 (with the lower numbers indicating less satisfactory and the higher numbers indicating more satisfactory.) Your comments on this report will be shared with the students to help them assess and improve their own work. If you would like to make confidential comments, please feel free to do so, but be sure to write them on a separate page and to label them "Confidential."

1. In an overall way, how do you think the project done by this student went?

1 2 3 4 5

2. Did this student stay in touch in appropriate ways during the course of the semester?

(Here I am thinking about things like whether students met appointments regularly and on time, kept you informed about progress on the project, promptly let you know about any changes in plans, responded to messages, let you know how and where to reach them, etc.)

1 2 3 4 5

3. Did this student demonstrate respect for you, your group, your constituency, your work?

(Here I am thinking about things like whether students demonstrated good listening skills, invested enough time to learn your goals and priorities, showed respect for the knowledge and know-how of community collaborators, took care to avoid wasting the time or other resources of others, shared leadership, etc.)

1 2 3 4 5

4. What were some of the most helpful things about the work this student did?

5. What are some things that would make this student's work more effective in the future?

6. Did you need or want anything more from me as the teacher/supervisor, or from the College of Law or the University, that might have made this project more helpful or productive?

7. Do you have any other comments you would like to make, or any suggestions for how we might better plan and carry out student projects with community groups in the future?

(Feel free to use the back of this form, or to add additional sheets if you want to take more room.)

Community Development Seminar

Evaluation of Field Work Project for Community Development Course Student Input

Name of student: _____

Project: _____

Supervisor(s): _____

Dear Student: Please answer the following questions however you think best. You may explain in your own words. You may also use a scale of 1 to 5 (with the lower numbers indicating less satisfactory and the higher numbers indicating more satisfactory). Your comments will be shared with the project to help them assess and improve their own work. If you would like to make confidential comments, please feel free to do so, but be sure to write them on a separate page and to label them "Confidential".

Did this project meet your original objectives and expectations?

(If not, please explain.)

1 2 3 4 5

What were some of the best features of this project?

What were some of the worst?

Did the community group with which you were working provide the support and information that you expected and needed?

(Here we are thinking about things like whether the organization met appointments regularly and on time, kept you reasonably informed of developments related to the project, responded to relevant questions, arranged appropriate opportunities for you to learn directly about the group and its work, etc.)

1 2 3 4 5

Did the group designate a primary contact person or supervisor for your work on the project? If so, did that person stay in good communication with you and provide agreed direction and support?

1 2 3 4 5

Did the group show reasonable understanding about your situation as a student?

(Here we are thinking about things like whether the group understood about competing demands on your time, attempted to help you meet reasonable academic deadlines, could have used additional information from us about these matters, etc.)

1 2 3 4 5

If you were working with other students on this project, did that collaboration go well?

(If not, please explain.)

1 2 3 4 5

Were you satisfied with the back-up and supervision for this project provided by university faculty?

(Please be frank. We are most likely not in a position to offer all that every student or every group wants and needs, but we sincerely want to figure out how to supervise these projects effectively, and to learn what works and doesn't work. If you would feel more comfortable making certain comments on the anonymous course evaluation form that will be distributed by the school toward the end of the semester, of course you should feel free to do so.)

1 2 3 4 5

Do you have any other comments you would like to make, or any suggestions for how we might better plan and carry out student projects with community groups in the future?

(Please use an additional sheet if needed.)

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

PERMANENT COLLECTION TEMPORARY COLLECTION MAIN MENU

project images: Austin East



Law students visited Austin East twice a week and worked with students. Here Mike Brezina and Zaccheus Ligon exchange views.

Austin East image gallery continued | < [previous](#) | 2 of 10 | [next](#) >

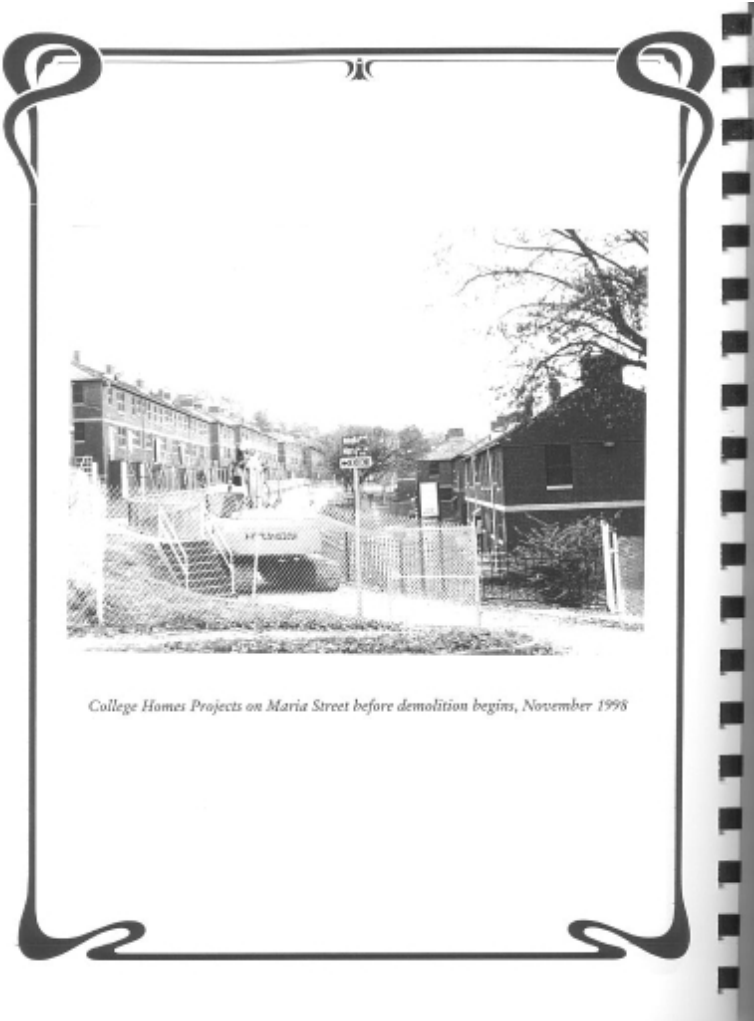
[Return to Austin East project main page](#)

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

PERMANENT COLLECTION TEMPORARY COLLECTION MAIN MENU

project images: A Photo Essay and the Search for Shelter



College Homes Projects on Maria Street before demolition begins, November 1998

Search for Shelter image gallery continued < [previous](#) | 2 of 5 | [next](#) >

[Return to Search for Shelter](#)

Tennessee's Partial Spousal Rape Exclusion in Action

A. Teacher's introduction

A criminal case involving spousal rape received substantial attention during the campaign Jennifer describes here. The case is one of the major instances in which Tennessee appellate courts have interpreted and discussed the state's marital rape exclusion. Because of its use in the campaign and its significance for Tennessee law on the point, Jennifer and I both thought the case should be included in this exhibit.

At the same time, we had some reservations because the facts of the case are disturbing to say the least, and because the potential for inflicting further harm seemed real to us. Eventually we decided to reproduce a heavily edited version of the reported judicial opinions in the case, but to precede them with this introduction, explaining some things about the case and about the approach we decided to take in posting the opinions here.

1. Use of this case by advocates in the repeal campaign

Advocates in the campaign to repeal the limited spousal rape exclusion wanted the public to be aware of the opinions of the Court of Criminal Appeals and the state Supreme Court in this case, and they made reference to those opinions in many educational forums. Although the facts in the case had been a motivating factor in the legislature's decision in 1998 to create the new crime of "aggravated spousal rape," the case had not led to full repeal of the spousal rape exclusion, as advocates in the campaign maintained would have been the more appropriate move.

Advocates pointed to this case because they believed that it demonstrated several points related to the spousal rape exclusion which they deemed to be important for various audiences in the state. For instance,

- For those who were under the impression that the spousal rape exclusion was an outdated holdover from the past with little relevance to contemporary practice, advocates referred to this case to show that the limited spousal rape exclusion concretely operates in Tennessee's criminal justice system to lessen punishments imposed for proven acts of rape committed by husbands against their wives. They pointed out that the state's supreme court, even when faced with a conviction on facts that all would agree were egregious, did not shrink from effectively underscoring and reinforcing Tennessee's different treatment for rape of one's spouse as opposed to rape of anyone else.
- For legislators and others who were interested in the views of state judges about the current state of the law, advocates quoted the Court of Criminal Appeals in the first of the excerpted opinions below to show that judges were unhappy with the operation of the partial exclusion. The court had in effect invited legislative reform when it observed, "We are . . . certain that the legislature would want this type of criminal conduct to be punishable as more than a Class C felony."

Hopefully, our legislature will address this issue and assess an appropriate penalty for this wicked conduct." (Although the legislature did indeed respond, advocates argued that the limited reform enacted by the legislature by the time of the campaign was demonstrably inadequate.)

- For strong supporters of women's rights who thought this particular reform should be a low priority for advocates because they predicted that few married women would turn to the criminal justice system for relief against their husbands, advocates pointed to the case to show that occasional prosecutions do occur. They argued further that even if such prosecutions are few, rape survivors in such cases deserve to have their interests fairly protected.
- For those who doubted that marital rape was a problem of sufficient severity or importance to merit the same treatment as rape by a boyfriend, same-sex partner, family member, date, acquaintance, or stranger, advocates pointed to the facts of this case to show otherwise. However much one might wish that such things never happen, marital rape does take place in the real world and does harm real people. In fact, they argued that the case demonstrates in a particularly vivid way how rape within marriage is highly damaging precisely *because* it is a crime committed within the context of an intimate, ongoing, and interdependent relationship where rape seems, at least to so many people, all but unthinkable.

2. Reservations about posting opinions from the case on this website

Because the opinions in the case had been used by advocates in the course of the repeal campaign, and because Jennifer had also assigned the opinions as readings when she made her presentation to the rest of the Community Legal Education class, I had been planning all along to include them as an informative resource and artifact from her project. As I was putting together this web display, however, I found myself increasingly uneasy. The facts that led to the conviction are lurid ones, involving physical violence, forced starvation and bestiality.

I worried primarily that highlighting the outrageous facts in this case might somehow suggest indirectly that the only marital rapes worthy of prosecution and serious public concern are those accompanied by extreme cruelty or gross deviation from cultural norms -- not those that "simply" rest on coerced sex. Since the rape in this case involved bestiality and torture, the case posed a special danger of prejudice against the defendant that I feared might confuse more than clarify the issues at stake in marital rape law.

Secondarily, I was concerned that the sensational facts might disturb or offend visitors to this website. On the one hand, I resist the idea that I should necessarily purge all disturbing or offensive things from this space. After all, the world is full of hard things, and they need to be talked about and understood. Students in my classes will soon be licensed professionals, likely to encounter people in various kinds of trouble and extremity, and to be called upon to respond to disturbing and offensive things in a professional and discerning way. In any case, an important goal of my teaching is that

some students in my fieldwork classes will try to change social and legal practices that are disturbing and offensive. Surely they will not be able to do so without confronting those very characteristics, and without describing and addressing the issues in a straightforward way.

Nevertheless, I think visitors to a website should not be subjected to potentially offensive material unless it is genuinely important for understanding something substantive about a student's project. So I hope that my decisions here represent a reasonable accommodation between these sometimes conflicting impulses.

3. Explanation of editing approach

I have taken the following steps to resolve the above concerns. First, I have omitted the names of the parties to the criminal prosecution. The names are of no importance to the substantive points the cases illustrate about Jennifer's project. Second, in addition to editing the opinions to omit discussion of legal issues that are not directly related to the issue of spousal rape, I have also omitted most of the factual detail included in the court's opinions. Instead I will sketch here a few basic facts that I believe should allow readers to understand the case and its significance for the campaign. Those facts are as follows.

The defendant husband in this criminal prosecution withheld food from his wife, apparently over an extended period. By the time of the repeated incidents in question, she weighed approximately 68 pounds and was too weak physically to do much of anything to resist what was done to her. On two of the three occasions involved, the husband also bound and gagged his wife. There was a suggestion (introduced by the husband in his own defense!) that the wife had been raped by members of her nuclear family when she was a child. There was also animal abuse involved in the case.

B. The Opinions

Editor's notes for non-lawyers:

The opinions below are from two different courts of appeal that ruled on certain aspects of the case after the trial was held. Originally the case was tried to a jury at the level of the "trial court." Witnesses testified there, and other evidence was introduced as well. The defendant was convicted, and he appealed his conviction to the Tennessee Court of Criminal Appeals, where a group of judges listened to arguments from lawyers for both sides about what had taken place at the trial. It then issued a ruling in the case. As appellate judges are usually required to do, the court then issued a written judicial opinion that explained its reasoning. (That is the first opinion excerpted below.) The defendant then appealed his conviction once more, this time to the Tennessee Supreme Court. There another group of judges listened to more arguments from the lawyers about what had taken place at the trial, and also about what the Court of Criminal Appeals had done in the case. The Tennessee Supreme Court judges also issued a written opinion, and that opinion is the second one excerpted below.

As you will see, by the time of the second opinion, when the case had reached the Tennessee Supreme Court, its focus was not on the substance of marital rape, nor on the justice or injustice of Tennessee's partial marital rape exclusion. At that point, the court was focused instead on a more general question of state criminal law (that is, whether a "lesser grade offense" under the Tennessee criminal code was simply another expression for "lesser included offense" or instead had an independent meaning of its own). This latter question is an important one for criminal law, but of course was not the focus of the campaign to end Tennessee's spousal rape exclusion.

Footnote numbers in the excerpts below do not correspond to the footnote numbers in the original opinions.

Decision by the Tennessee Court of Criminal Appeals 1997

A jury convicted the appellant . . . of three counts of aggravated rape. He was sentenced to twenty-five years on each count. The sentences were ordered to run consecutively. He raises seventeen issues on appeal. Upon review, we reverse and remand for substitution of three spousal rape convictions and sentencing.

[Court's findings of fact omitted]

LIMITED SPOUSAL EXCLUSION TO RAPE

The appellant argues that the evidence is legally insufficient to support a conviction for aggravated rape. He maintains that because he was married to the victim, he cannot be convicted of aggravated rape. The state concedes that the appellant was married to the victim and that his conviction for aggravated rape cannot stand.

Regrettably, due to these sordid facts, we must agree with the state's concession. Pursuant to Tenn.Code Ann. § 39-13-507(a), one cannot commit aggravated rape or rape if the victim is his or her legal spouse.

The appellant is correct in his contention that Tennessee's spousal exclusion statute provides him with immunity from both rape and aggravated rape prosecution. The record contains an abundance of proof showing the appellant and the victim were married. Moreover, the state stipulates to this fact. Accordingly, the appellant's convictions for aggravated rape are reversed. We will now address what crimes the appellant did commit.

SPOUSAL RAPE

Although the appellant's actions cannot constitute aggravated rape, his unlawful sexual penetration of a spouse may, however, constitute spousal rape. Spousal rape is defined as:

[T]he unlawful sexual penetration of one spouse by the other where:

(A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(B) The defendant causes serious bodily injury to the victim; or

(C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce. Tenn.Code Ann. § 39-13-507(b)(1)(1991).

The appellant contends that he cannot be convicted of an offense which is not charged in the indictment or which is not a lesser included offense of the indicted charge. Because spousal rape is not a lesser included offense of aggravated rape, he claims that the most he can be convicted of is the lesser included offense of simple assault. We disagree.

The appellant is correct in his contention that spousal rape is not a lesser included offense of aggravated rape. A spousal rape conviction requires proof of a legal marriage between the accused and the victim, an element not required for an aggravated rape conviction. However, spousal rape is a lesser grade of aggravated rape. *State v. Trusty*, 919 S.W.2d 305, 313-14 (Tenn.1996). In *Trusty*, our Supreme Court held that a lesser grade of an indicted offense may form the basis for a conviction as long as there is evidence in the record to support a conviction on the greater offense. *Id.*

This Court finds that the appellant can be and is convicted of three counts of spousal rape. A jury found that the appellant had committed all of the elements necessary to constitute aggravated rape by use of a deadly weapon. The record contains an abundance of evidence proving the appellant and the victim were legally married.

Furthermore, the state concedes that they were married.

Therefore, we find the appellant guilty of three counts of spousal rape. We remand to the trial court for sentencing on three counts of spousal rape, which judgments are substituted for the aggravated rape convictions.

JUDGMENT OF ACQUITTAL AND DEFENSE INSTRUCTION

The appellant argues that the trial judge erred in overruling his motion for judgment on the aggravated rape convictions. The appellant's third issue asserts that the trial court erred in refusing to instruct the jury that legal marriage was an absolute defense to aggravated rape. Our reversal of the aggravated rape convictions renders these issues moot.

FAILURE TO SPECIFY MENTAL ELEMENT

The appellant argues that the indictment failed to specify a requisite mental element of aggravated rape. He, therefore, contends that the indictment is invalid and the trial court lacked jurisdiction to try him. We disagree.

The requisite mental element of aggravated rape is intentional, knowing, or reckless. Tenn.Code Ann. § 39-11-301(c) (1991). Mental elements may be implied. See *State v. Marshall*, 870 S.W.2d 532, 538 (Tenn.Crim.App.1993) (holding intention to sell language necessarily implied knowing possession).

The appellant was charged with three counts of aggravated rape. The indictment alleged that the appellant: did unlawfully, forcibly, or coercively, while armed with a weapon or article used or fashioned in a manner to lead [the victim] reasonably to believe it to be a weapon, sexually penetrate [the victim] in violation of T.C.A. 39-13-502, all of which is against the peace and dignity of the State of Tennessee.

One acting forcibly acts intentionally. Accordingly, one could infer from the language in the indictment that if the appellant forcibly raped the victim, he intentionally raped the victim. The requisite mental element has been implied. Notwithstanding mootness, this issue is without merit.

[Discussion of recusal issue omitted.]

[Discussion of trial court's handling of alleged prior rape of victim omitted.]

[Discussion of admission of defendant's written statement to police omitted.]

[Discussion of admission of victim's taped statement to the Department of Human Services omitted.]

EXCESSIVE SENTENCE

The appellant argues that his sentence was excessive and that consecutive sentences were improper. The appellant was sentenced on three counts of aggravated rape, a Class A felony. We have reversed those convictions and found the appellant guilty of three counts of spousal rape. Spousal rape is punishable as a Class C felony. The case is, therefore, remanded for sentencing on the spousal rape convictions. The trial court will decide whether the new sentences shall run consecutively.

[Discussion of admission of photographs showing victim's emaciated condition omitted.]

[Discussion of admission of evidence of starvation omitted.]

[Discussion of admission of evidence of threats and verbal abuse omitted.]

[Discussion of admission of victim's calendar with notation about incidents omitted.]

[Discussion of exclusion of videotape omitted.]

[Discussion of alleged remark by jury foreperson about objection by defense counsel omitted.]

CONCLUSION

When our General Assembly debated the limited spousal exclusion bill, we are sure that they never contemplated as bizarre a set of facts as we have here. One cannot imagine the base, vile, and inhumane acts that the appellant perpetrated upon his wife. We are also certain that the legislature

would want this type of criminal conduct to be punishable as more than a Class C felony. Hopefully, our legislature will address this issue and assess an appropriate penalty for this wicked conduct.

The appellant is convicted of three counts of spousal rape for the reproachable crimes he committed against his wife. He will be sentenced for these crimes by the trial court and judgment will be entered accordingly.

Later Decision in the Same Case by Tennessee Supreme Court 1999

The dispositive issues in this appeal are as follows: (1) whether the indictment in this case charging the defendant with aggravated rape is sufficient to support a conviction for spousal rape, a "lesser grade" offense under this Court's decision in *State v. Trusty*, 919 S.W.2d 305 (Tenn.1996); and (2) if so, should this Court reconsider its decision in *Trusty*.

We agree with the Court of Criminal Appeals that, under *Trusty*, the indictment in this case would be sufficient to support a conviction for the "lesser grade" offense of spousal rape. However, upon careful reconsideration, we overrule *Trusty* to the extent that it recognizes "lesser grade" offenses as distinct from lesser-included offenses and permits convictions of "lesser grade" offenses that are not lesser-included offenses embraced by the indictment. In light of our overruling of *Trusty*, the indictment in this case is not sufficient to support a conviction for spousal rape. Therefore, we vacate the defendant's convictions, dismiss the indictments, and remand this case to the trial court for further proceedings consistent with this decision . . .

FACTUAL BACKGROUND

The defendant raped his wife on three separate occasions. . . . As a result, he was charged with three counts of aggravated rape. Tenn.Code Ann. § 39-13-502 (1991). Defense counsel argued that the defendant could not be prosecuted for aggravated rape because he was married to the victim at the time these offenses allegedly occurred and Tennessee law contains a statutory exclusion which precludes a prosecution for rape if the perpetrator is the spouse of the victim. Tenn.Code Ann. § 39-13-507 (1991 Repl.). The trial court disagreed. At trial, a certified copy of the parties' marriage certificate was introduced into evidence, and the jury was instructed on spousal rape as a lesser-included offense of aggravated rape. The jury found the defendant guilty of the charged offenses of aggravated rape. . . .

In the Court of Criminal Appeals, the defendant renewed his assertion that the aggravated rape convictions were invalid due to the statutory spousal exclusion. The State conceded that the defendant was married to the victim and that his convictions for aggravated rape could not stand. The Court of Criminal Appeals agreed, stating that "Tennessee's spousal exclusion statute provides . . . immunity from both rape and aggravated rape prosecution." The intermediate court, however, modified the defendant's convictions to spousal rape. In so holding, the intermediate court acknowledged that spousal rape is not a lesser-included offense of the indicted offense aggravated rape but found the modification appropriate because spousal rape constituted a "lesser grade" offense of aggravated rape under this Court's decision in *Trusty*. Therefore, the Court of Criminal Appeals held that the indictment charging aggravated rape was sufficient to support a conviction for spousal rape.

In this Court, the State and the defendant agree that the indictment is sufficient under *Trusty* to support a conviction of spousal rape as a "lesser grade" offense, but the State and [the defendant] urge this Court to overrule *Trusty* to the extent that it recognized "lesser grade" offenses. The parties assert that *Trusty* is unsupported by Tennessee precedent and unworkable in application. We agree and, as stated below, overrule that portion of *Trusty* which recognized "lesser grade" offenses.

ANALYSIS

We begin our analysis of the issues in this appeal with a brief historical overview. The three elements of common law rape are carnal knowledge of a woman, forcibly and against her will. *State v. Wilkins*, 655 S.W.2d 914, 916 (Tenn.1983). A review of statutes and case law indicates that the common law definition of rape was adopted in Tennessee. *Id.* Although this Court has

never had occasion to rule on the matter, commentators generally accept the proposition that, at common law, a man could not, as a matter of law, be convicted of raping his wife.¹

This spousal exclusion was first incorporated into Tennessee's statutory law in 1978. See Tenn.Code Ann. § 39-3707 (repealed 1979) ("A person does not commit criminal sexual conduct under §§ 39-3701--39-3706 if the victim is that person's legal spouse."). The following year, the General Assembly limited the exclusion by allowing prosecution of a spouse in cases where the marital relationship had deteriorated. See Tenn.Code Ann. § 39-3709 (renumbered § 39-2-610 in 1982 Repl; repealed 1989) ("A person does not commit rape or sexual battery or assault with intent to commit rape or sexual battery under §§ 39-3701--39-3710 if the victim is his or her legal spouse, unless the couple is living apart and one of them has filed for separate maintenance or divorce."). If the couple was living apart and one of them had filed for separate maintenance or divorce, the spouse was prosecuted under the general law.

With the enactment of the Criminal Sentencing Reform Act in 1989, the General Assembly abolished common law offenses and statutorily specified the conduct necessary to support a criminal prosecution in Tennessee. *State v. Hill*, 954 S.W.2d 725, 728 (Tenn.1997). While retaining the spousal exclusion of prior law, the 1989 Act created the separate offenses of spousal rape and spousal sexual battery as exceptions to the exclusion. See Tenn.Code Ann. § 39-13-507 (Supp.1989). When the present offenses were committed in 1993 and 1994,

the statute provided in pertinent part as follows:

Limited spousal exclusion. --(a) A person does not commit an offense under this part [aggravated rape, rape, aggravated sexual battery, sexual battery, or statutory rape] if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c) [defining "spousal sexual battery"].

(b)(1) "Spousal rape" means the unlawful sexual penetration of one spouse by the other where:

(A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(B) The defendant causes serious bodily injury to the victim; or

(C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.

(2)(A) "Spousal rape," as defined in subdivision (b)(1)(A) or (B), is a Class C felony.

(B) "Spousal rape," as defined in subdivision (b)(1)(C), shall be punished pursuant to § 39-13-502 [aggravated rape] or § 39-13-503 [rape].

Tenn.Code Ann. § 39-13-507(a) & (b) (1991).

This statute was amended one year after its enactment to add the above-quoted subdivision (b)(1)(C) and its corresponding punishment provision. See 1990 Tenn. Pub. Acts ch. 980, § 5.²

Section 39-13-507 is best described as a hybrid statute. It both maintains the general

¹ Although a husband could not be guilty of raping his wife, he could be prosecuted if he assisted another in the rape. See David Raybin, *Tennessee Criminal Practice and Procedure*, § 28.114 (1985).

² Although not pertinent to this appeal because the offenses occurred in 1993 and 1994, a 1998 amendment created the offense of aggravated spousal rape for conduct "especially cruel, vile and inhumane to the victim during the commission of the offense." See 1998 Tenn. Pub. Acts ch. 1068, § 1.

spousal exclusion from prosecution and creates specific sexual offenses for which only spouses are subject to prosecution.

The defendant in this case was indicted and convicted for aggravated rape. All three counts charged in pertinent part that the defendant "did unlawfully, forcibly, or coercively, while armed with a weapon or an article used or fashioned in a manner to lead [his wife] reasonably to believe it to be a weapon, sexually penetrate [his wife] in violation of T.C.A. § 39-13-502." ³

Therefore, the issue in this appeal is whether an indictment for aggravated rape, an offense to which the spousal exclusion applies, can support a conviction for spousal rape.

A defendant has a constitutional right to be given notice of the offenses with which he is charged. *Hill*, 954 S.W.2d at 727. The means by which this notice will be provided is governed by statute, . . . and by rule . . . In *Howard v. State*, 578 S.W.2d 83, 85

³ Tenn.Code Ann. § 39-13-502 provides:

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Aggravated rape is a Class A felony.

(Tenn.1979), this Court adopted the following test for determining whether an offense is necessarily included in, *i.e.*, a lesser-included offense of, the charged offense: "an offense is necessarily included in another if the elements of the greater offense, as those elements are set forth in the indictment, include, but are not congruent with, all the elements of the lesser." This definition applied a statutory elements approach, whereby a determination of whether an offense was lesser-included involved a comparison of the statutory elements of the offense charged in the indictment with the statutory elements of the offense alleged to lesser-included. Under this test, an offense is lesser-included if all its elements are contained within the elements of the offense charged in the indictment.

The idea that "lesser grade" offenses are distinct from lesser-included offenses was first enunciated in *Trusty*. Under *Trusty*, "lesser grade" offenses were located within the same statutory part as the indicted offense but contained different or additional elements than the indicted offense. The holding in *Trusty* was partially prompted by the fact that some offenses which had traditionally been considered lesser-included at common law were no longer lesser-included when the statutory elements test adopted in *Howard* was applied to criminal offenses as redefined by the 1989 Criminal Sentencing Reform Act. . . . Of particular concern was whether voluntary manslaughter is a lesser-included offense of first degree murder under the Tennessee criminal statutes as amended in 1989. . . .

Another basis for the adoption of the "lesser grade" analysis in *Trusty* was the language of Tenn.Code Ann. § 40-18-110(a) which provides: "[i]t is the duty of all judges charging juries in cases of criminal prosecutions for any felony wherein two (2) or more grades or classes may be included in the indictment, to charge the jury as to all of the law of each offense included in the indictment. . . ." (Emphasis added.) *Trusty* failed to recognize, however, that when §

40- 18-110 was enacted in 1877, lesser grade or class was used to mean only lesser-included offense. See *Good v. State*, 69 Tenn. 293 (Tenn.1878). Thus, contrary to the conclusion reached in *Trusty*, "lesser grade or class" and "lesser-included offense" are simply synonymous terms describing a single type of offense which is included in the offense charged in an indictment and which may, therefore, form the basis of a conviction. Moreover, as explained in detail in *State v. Burns*, 6 S.W.3d 453 (Tenn.1999), also released today, the "lesser-grade" analysis adopted in *Trusty* proved unworkable in application. Under *Trusty*, trial courts were required to instruct on "lesser grade" offenses. Therefore, the defendant in this case, indicted for aggravated rape, under the rule announced in *Trusty* would be conclusively presumed to be on constitutional notice that he was being tried for, and could be convicted of, any of the sexual offenses contained in Title 39, Part 5 of the Code, including public indecency or indecent exposure, Tenn.Code Ann. §39-13-511, prostitution, Tenn.Code Ann. § 39-13-513, rape of a child, Tenn.Code Ann. § 39-13-522, sexual battery by an authority figure, Tenn Code Ann. § 39-13-527, or solicitation of a minor, Tenn.Code Ann. § 39-13-528. There is simply nothing in the statutory scheme that indicates the General Assembly intended such a broad rule.

Therefore, because *Trusty's* "lesser grade" holding is not supported by Tennessee law and is unworkable in application, we conclude that *Trusty* must now be overruled to the extent that it recognizes "lesser grade" offenses.

Having overruled *Trusty* we must also reverse the Court of Criminal Appeals judgment which modified the convictions of aggravated rape to spousal rape. The State and the defendant agree that spousal rape is not a lesser-included offense of aggravated rape under the test adopted by this Court in *Howard*, because spousal rape contains a statutory element not contained in aggravated rape, namely, that the victim is

the legal spouse of the defendant. Moreover, spousal rape is not a lesser-included offense of aggravated rape under the test announced today in *Burns*. Under that test, a lesser-included offense may contain an additional element or elements establishing: (1) a different mental state indicating a lesser kind of culpability; and/or (2) a less serious harm or risk of harm to the same person, property, or public interest. *Id.* at 462. The additional element in spousal rape, that the victim is the legal spouse of the defendant, does not establish either a different mental state indicating a lesser kind of culpability, or a less serious harm or risk of harm to the same person. Having determined that spousal rape is not a lesser-included offense of aggravated rape, it follows that the indictment charging aggravated rape is not sufficient to support a conviction for spousal rape.

Our conclusion that an aggravated rape indictment cannot be the basis for a spousal rape conviction is also supported by this Court's decision in *McLean v. State*, 527 S.W.2d 76 (Tenn.1975). In *McLean*, the petitioner was indicted under the general law and convicted of the sale of a controlled substance. Although raised for the first time on appeal, it was uncontroverted at trial that the petitioner was a licensed, registered pharmacist. This Court concluded that the general law prohibiting the sale, or possession with intent to sell, a controlled substance was not applicable to *McLean* because there was a statutory exception for pharmacists. *Id.* at 79. In so holding, this Court emphasized that there were specific code provisions relating to the sale of a controlled substance by a pharmacist without a prescription, stating:

It seems clear to us that the petitioner should properly have been indicted and tried for violation of T.C.A. § 52-1431 [now 53-11-308], and sentenced according to T.C.A. § 52-1435 [now 53-11-401]. The statute under which he was indicted and convicted pertains to the public generally, but the code sections last cited deal specifically with pharmacists and other

registrants, and prescribe entirely different penalties and sanctions from those pertaining to the general public. *Id.* at 80. The *McLean* Court also rejected the State's argument that the indictment under the general law could support a conviction for the sale of a controlled substance by a pharmacist without a prescription, stating:

On behalf of the State it is urged that the evidence offered at the trial was sufficient to convict the petitioner of a violation of T.C.A. § 52-1431 [now 53-11-308], that is selling a controlled substance falling within Schedule III without a prescription. It is therefore argued that there has been an error made simply as to the degree of punishment, and we are urged to reverse the case and remand it for a new trial on punishment only. While this might be permissible under some circumstances, we do not believe it appropriate where the petitioner has been indicted and tried under an inapplicable statute. It seems to us that there has been such a material variance between the offense charged and that attempted to be shown in evidence as to void the conviction.

Id. at 81 (emphasis added). Recognizing that "[n]othing is more firmly established in the law than that a defendant cannot be charged with one crime and convicted of another," this Court reversed *McLean's* conviction. *Id.* (citation omitted).

As in *McLean*, the defendant in this case was indicted, tried, and convicted under an inapplicable statute. Pursuant to Tenn.Code Ann. § 39-11- 109(a)(1997), "[w]hen the same conduct may be defined under both a specific statute and a general statute, the person may be prosecuted under either statute unless the specific statute precludes prosecution under the general statute." (Emphasis added.)

The specific statute in this case, the limited spousal exclusion, Tenn.Code Ann. § 39-13-507, precludes prosecution under the general criminal sexual offense statutes when the victim is the legal spouse of the perpetrator. While the spousal exclusion must be proven by a preponderance of the evidence, see Tenn.Code Ann. § 39-11-

202(b)(2) (1997), there was abundant proof introduced at trial, including a certified copy of their marriage certificate, to establish that the defendant and the victim were legally married at the time these offenses were committed. In addition, the State conceded in the Court of Criminal Appeals that the spousal exclusion applied.

Therefore, given the application of the spousal exclusion, under *McLean*, although the evidence was sufficient to convict the defendant of spousal rape, the conviction cannot be affirmed because the State failed to specifically indict the defendant for that offense. Furthermore, the similarity of the allegations in the indictment-- that the defendant did unlawfully sexually penetrate the victim while "armed with a weapon"-- to the definition of spousal rape under Tenn.Code Ann. § 39- 13-507(b)(1)(A) cannot serve to charge the defendant with spousal rape in addition to aggravated rape. See *State v. Jefferson*, 529 S.W.2d 674, 678 (Tenn.1975) (holding that two distinct offenses cannot generally be charged in the same count of the indictment). Having so concluded, we must reverse the convictions and remand this case to the trial court for further proceedings.

CONCLUSION

For the reasons herein stated, we overrule *Trusty* to the extent that it requires jury instructions on "lesser grade" offenses and permits convictions of "lesser grade" offenses. Because the indictment in this case is not sufficient to support a conviction for spousal rape, we reverse the judgment of the Court of Criminal Appeals, vacate the defendant's convictions, dismiss the indictments, and remand this case to the trial court for further proceedings consistent with this decision.

Law Student Field Projects in Community Law

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project story: Spousal Rape Campaign(cont'd)

Jennifer Lichstein

Courts in some other states have been less friendly to marital rape exemptions. (See, for instance, *People v. Liberta*, 485 N.Y. S. 2d 207, 64 N.Y.2d 152, 474 N.E.2d 567 (1984), where the marital rape exclusion was held to be unconstitutional.) Unfortunately, the Tennessee Supreme Court did not take this approach.

I found this legal state of affairs shocking, and I saw it as a basic question of [fairness, dignity and human rights for women](#). I was glad to have an opportunity to work in a campaign that would try to wipe this law off the books in Tennessee.

As things turned out, two other law students, [Christy Carter \(now Christy Johnson\)](#) and [Leah Wade](#), both friends of mine, were also interested in working on this project. They and I were enrolled in another course at the law school – Public Interest Law and Lawyering, taught by Professor Dean Rivkin – and the three of us decided we wanted to work together on a legislative advocacy project tied to the marital rape campaign. Leah's husband, [Bryan Litt](#), had substantial skills in making documentary videos. He also owned some excellent digital recording equipment that he was willing to loan to us for our project. We decided that we would produce an advocacy videotape and generally throw ourselves into other educational and lobbying activities connected to the campaign. Both teachers gave their approval for this proposal once we ascertained that there was enough work to justify a double time commitment on my part, and after we determined it was feasible for me to report and track my activities for the two courses.

My initial goal for the project was to establish a local network of law enforcement agencies, victims' advocates, religious organizations, women's political and civic organizations, and anyone else who supported the repeal of Tennessee's marital rape exemption. That network could in turn appoint a contact person who would serve as a liaison to the legislative campaign and would participate in political actions at the statewide level. Staff at the [Sexual Assault Crisis Center \(SACC\)](#) suggested that I might try to make presentations at women's civic organizations, such as gardening clubs or business associations. The hope was that such women might have time, money, political clout, and helpful connections.

Eventually the project included a letter-writing campaign to members of the General Assembly, a [brochure](#), a petition we circulated in Knoxville and elsewhere, face-to-face meetings with legislators, and of course the video. We traveled to the state capitol in Nashville several times, once to attend a Senate committee hearing on the repeal bill. We participated in [Grassroots Assembly Day \(GAD\)](#) with a broad coalition interested in legislation affecting low-income mothers, we went to several conferences, and we learned from experienced advocates about effective strategies for achieving legislative reform. One thing we did not have was much of a media campaign, and I now realize how important this can be. If I become involved in a legislative campaign in the future, I will try to pay more attention to this. ([teacher comment on media](#))

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student reflections: Spousal Rape Campaign (cont'd)

Jennifer Lichstein

The need for community education about violence against women

On the other hand, some things about the project were daunting. So much more education and activism needs to be done on the issue of gender equality generally. Many, if not all, of the barriers we faced on the issue of repealing the marital rape exemption can be traced to attitudes about gender roles in our society. Surprisingly, there is still a tremendous need for people in our community to be educated about the basics of a domestic violence relationship, and about the sad prevalence of violent behavior within the relationship of marriage.

In our video, we intentionally stayed away from the more general topic of domestic violence and tried to focus narrowly on spousal rape. We thought this focus would be both more manageable and more effective in our context. But we learned that this focus limited the usefulness of our video in some way, because people without any background on violent relationships just don't get it.

I recall once showing this video to an audience that included young teenage men, and as the video was just beginning to roll, several of them were protesting and shaking their heads -- not in protest, but in sincere confusion. How could someone rape his wife? It was like the words marital rape were an impossible paradox, a trick concept, or simply a big blooper. To have really dealt with this reaction, and given those young men a chance to unpack their ideas on the subject, we would have needed to stop the tape and have an extended discussion. The video itself did not start at the beginning and cover the necessary ground. ΣIt wasn't just the usual suspects who had trouble with the topic, either. When I set up tables at the University Center or even at the law school, I found that many of the people I spoke with there were uncomfortable talking about the subject of spousal rape. Eventually I decided that tabling was not very a very effective way to educate people about marital rape. You need a decent chunk of time to sit down with people to facilitate any sort of meaningful conversation about this issue. For instance, to understand how a marriage might continue despite the occurrence of serious sexual assault within it, you need to hear some narratives, see some statistics, and learn about the dynamics of abusive relationships.
([teacher comment on pedagogy](#))

Depending on the audience, it was sometimes necessary to begin with a discussion about the cycle of violence, and the role sexual assault plays in that cycle. I would frequently ask participants to first brainstorm certain topics like "Why do batterers batter?" "Why don't batterers just leave if they are so dissatisfied in their relationship?" "Why are the vast majority of perpetrators men?" Even audiences unfamiliar with the topic were able to offer insights that I had not thought of. Through these discussion questions, the group was often able to make some pretty sophisticated conclusions.

There continues to be a tremendous need for education on violence against women generally. With regard to the marital rape exemption, most people don't even know it exists. I would love to see a law student pursue a project on these issues. I also think that developing a curriculum for students in the public school system would be a great place to start. Of course, the discussion with students would vary according to age, but no child is too young to be introduced to concepts of equality, respect, and fairness.

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project artifacts and images: Spousal Rape Campaign

Eileen Kogan, Counselor, Sexual Assault Crisis Center.

Hear what she has to say:

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Jennifer marching with others in "Take Back the Night" Rally

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Advocacy campaign brochure

Working Budget

Mini DV tapes used to record video – 7 1-hr tapes @ \$20 each	\$140.00
Copies of tape to distribute – 20 @ \$3.50 per tape	70.00
Poster for Lobbying in Nashville – “Rape Is Legal in Tennessee”	5.50
500 pieces of color paper for brochure	10.00
500 double-sided copies at 2.5 cents per side	25.00
2 clipboards to circulate petitions	2.00
100 copies of brochure	14.00
Gas money to Nashville – \$20 roundtrip on three occasions	60.00
Parking – \$8 per day for three vehicles	24.00

TOTAL **\$ 350.50**

There have been numerous incidental expenses including long distance phone calls and copying. Additionally, Bryan Litt donated his time and talent as camera person and editor as well as the use of his digital video camera and non-linear editing system. All of our interviewees also donated their time.

We will be glad to show you the video and answer any questions.

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Barbara Stark , Professor of Law.

Hear what she has to say:

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project artifacts and images: Spousal Rape Campaign

Patty Bordwine, Tennessee Task Force Against Domestic Violence.

Hear what she has to say:

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Kathy Hatfield, Director, Family Crisis Center.

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Stacey Hogg, Counselor

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Advocacy campaign buttons

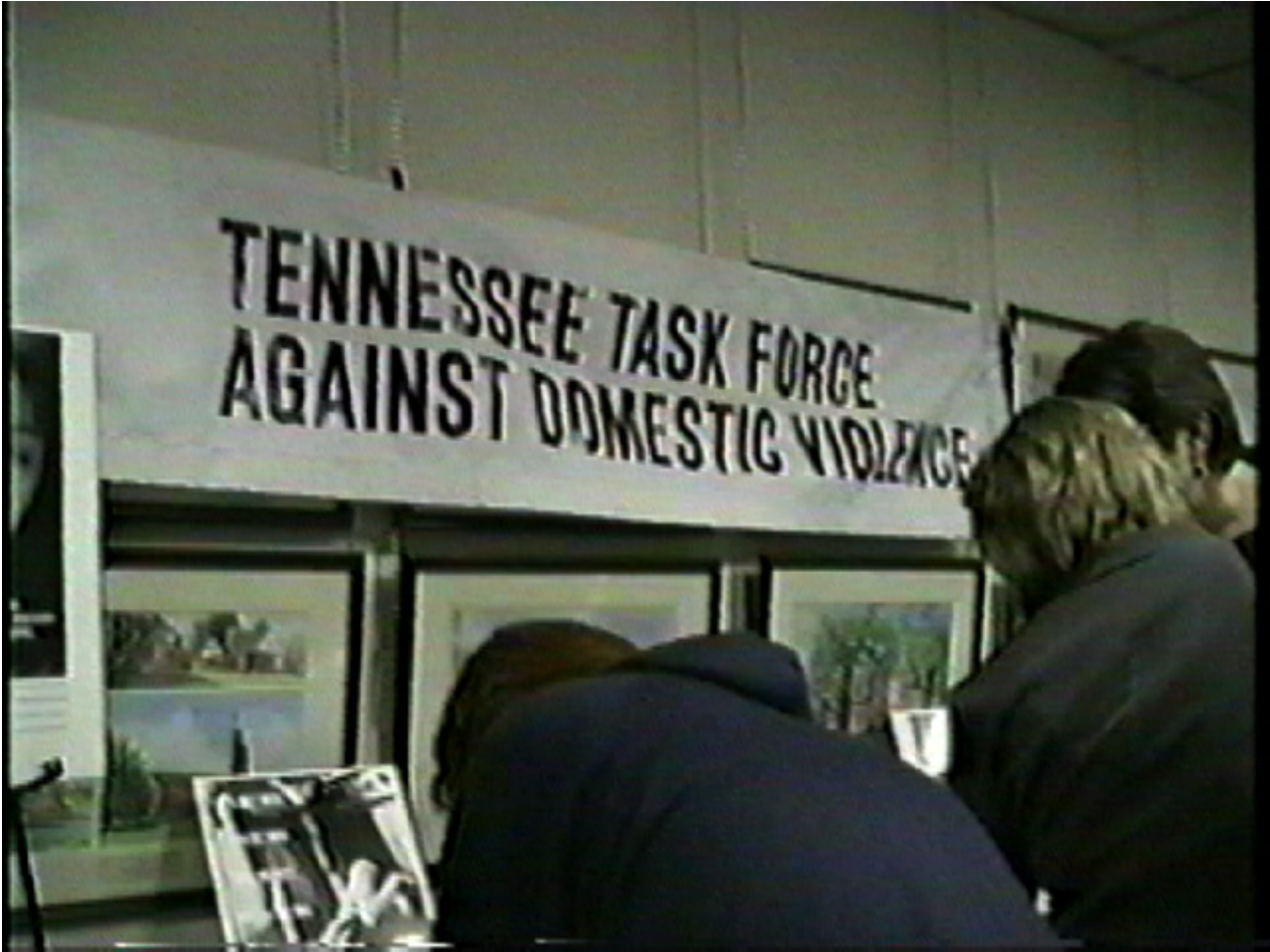
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project story: IDEA Inclusion Project (cont'd)

Barbara Dyer

We were interested in two audiences for this event and installation. First, we wanted to reach out to families of children with disabilities, so that more of them could become aware of their children's rights and know how to implement them. Because of [my work with other families](#) as a lay advocate, I was acutely aware of the need for this knowledge. For instance, in the effort to prevent IDEA from being weakened at the time of its reauthorization, we constantly heard from families that enforcement and implementation of IDEA were huge problems. But when all was said and done, the response from Congress in terms of statutory change reflected very little relief and few additional incentives to school systems to better enforce and comply with the law. So it seemed to me that the only logical next step for people relying upon the law was that they needed to become educated in the particulars of the Act, to create community networks that could help parents leverage each other's experiences and use the mandates from one child's program plan to help others. I saw this exhibit as contributing to that process.

Second, we wanted to reach children and adults who have little experience functioning in inclusive environments. We thought if we could capture some of the personal experiences of children with disabilities and let people enjoy a concrete experience of successful inclusion, we might open some eyes. Running through everything was our desire to celebrate the inclusive path for individuals with disabilities as a positive educational experience and human right.

At the invitation of Professor Ansley, Wayne and I attended a meeting that summer with people from Knoxville's American Festival Project. They put us in contact with Mark Lamb, executive artistic director of the [Circle Modern Dance](#) group in Knoxville. He had experience working with children with disabilities in his classes at a local magnet school, and he was interested in pursuing a joint project. So when fall arrived, we were already poised for action. ([Teacher comment on stretching semesters](#))

Once the semester began, Mark and I moved quickly to try to identify a group of children – with and without disabilities – who might want to help create and perform a dance about inclusion. Mark knew some likely children from his work in a local magnet school, and I knew some from my work in the community with families of children with disabilities. We each agreed to recruit three children for the performance. Of course I was really pleased when India decided she wanted to be one of the group.

For a number of weeks after that, Saturday afternoons became our choreography and rehearsal sessions. During those times, Mark worked with the children to make the dance. Mark and I had already developed some ideas about what we wanted to see, and we envisioned a basic structure that would move from an exclusionary circle that kept one child out, to a circle of inclusion and support that welcomed him in. But as we went forward, Mark added other layers of sound and movement, and he used a lot of material contributed by the children themselves.

At our first gathering, Mark had led an introductory activity where he asked the children to talk about activities they liked to do. At the end of the discussion, he showed us a characteristic gesture that each person had made and invited all of us to repeat the gestures with him. Finally, we performed the gestures to music. It was a wonderful way to warm up and get to know one another. Then when we started building the dance in later rehearsal sessions, Mark worked with the children to weave those early gestures of pleasure (and others as well) into the design of the dance. ([Teacher comment on this gifted dancer](#))

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collaborator perspectives: IDEA Inclusion Project

A number of collaborators and community members had important perspectives on this project.

[Wayne Dyer](#), Project Partner, Installation Designer

[Mark Lamb](#), Project Partner, Choreographer

[Donna Jennings](#), Parent-Activist and Audience Member

[Dean Rivkin](#), Legal Advocate and Audience Member

[Michelle Rosenberg](#), Project Participant and Dancer

I. Project Partners (cont'd)

Mark Lamb, Executive Artistic Director of Circle Modern Dance Company

My mission as a dance artist is to foster the dance in all people I work with, regardless of their conception of body image, or dance ability, or their ideas of what dance is "supposed" to be. When I myself was a student in college I was studying ballet and rigid modern dance techniques. My teachers placed great value on technical virtuosity, and I found myself frustrated in my attempts to get my leg a little higher or balance on the ball of my foot just a second longer. My body had limits.

While on a break from college, I was at home visiting my nephew, who was at the time a toddler, and I noticed that when I played music for him, without any prompting he began to dance instinctually to the music. No one had taught him this dance; it seemed as natural as breathing. The value of dance became so clear to me in that moment when I was watching my nephew bounce and sway to the music, unrehearsed and without judgment. I think this moment with my nephew changed my perception forever as a dance artist.

Another defining moment was when I met Liz Lerman. [<http://www.danceexchange.org/>] She was able to give me so many tools and so much information to help me carry on my own mission that "everyone has the right to dance." Many of the comments about my process that Fran and Barbara make on this website reflect practices when making dances that were inspired by the teachings of Liz Lerman. Liz told me to honor the people and their stories, so I feel I should honor her with acknowledgment for giving me the inspiration to continue the work in my community.

One great source of understanding and creativity that Liz challenged me to work with is a set of four simple questions to begin with before making a dance. They are:

Who is doing the dancing?

What is the dancing about?

Where are they dancing?

AND

Who cares?

I feel my answers to these questions might help you to understand my take, as one of the collaborating artists, on the Inclusion Project and our performance event:

Who is doing the dancing?

A diverse group of children of all ages ethnicities, abilities, and socioeconomic backgrounds. I must say that trying to find the blend in the mix certainly was challenging and often times frustrating. Good art takes discipline and hard work in any context. In the end, the joy and bonds between such a variety of performers outshone some of the obvious bobbles that can make a choreographer wince.

What is the dancing about?

Pure and simple: Inclusion. Barbara, Wayne, Fran and I discussed many factors, implications, strategies, but the bottom line for me was inclusion. Luckily Alana DaLoach, a friend and sound score artist already had a sound collage that fit many of our needs wonderfully. My goal was to try to show people what these children might experience on a daily basis concerning issues of exclusion in school settings, and then to show the beauty of working together inclusively.

Where are they dancing?

Wayne and others created a beautiful installation piece that served not only as a set, but also as a place where people could see the law. The visual elements defined a space for the dancing, and we also had an area where the audience could share their own ideas, experiences and feelings on a story board. The installation stood alone as a piece of interactive art, and I was honored to have it as a place for creating the dance with the children.

Who cares?

Maybe the person reading these comments can answer this final question. Honestly, I was surprised at the response to our performances. Like so much of life, this was an instance where I wished we had more time to perfect the performance. But over the years I have come to realize that sometimes we do our best and keep moving ahead, and sometimes it happens that

we touch people or communicate things that are beyond our initial expectations or understanding.

In the heat of striving for near-perfection while living with unavoidable limitations, I also try and relish the "small" moments. One of these moments came at the end of our first performance, when the dancers took a bow, and all left the stage except for Barbara's daughter India. In a triumphant gesture, with her pompoms waving overhead, India proclaimed, "We did it!" Barbara ran to her on the stage and instinctively gave her a mother's hug. The two of them embraced, and theirs were not the only tears in the house at that moment. Times like these are when I can easily answer the question "Who cares?" I do.

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collaborator perspectives: IDEA Inclusion Project

A number of collaborators and community members had important perspectives on this project.

[Wayne Dyer](#), Project Partner, Installation Designer

[Mark Lamb](#), Project Partner, Choreographer

[Donna Jennings](#), Parent-Activist and Audience Member

[Dean Rivkin](#), Legal Advocate and Audience Member

[Michelle Rosenberg](#), Project Participant and Dancer

II. Members of the audience at one of the Inclusion Project's performances

Donna Jennings, parent of child with multiple disabilities

I am writing in regard to the IDEA dancers. I had the privilege last year to see them perform at the STEP / LRE for Life annual conference. I am the parent of a child with multiple disabilities, and this was really inspiring to see that there is a program that includes kids with different abilities to perform in the art of dancing. This is a unique form of self-expression for these performers. The performance reminded me of how my own child has been excluded before in various situations, and whenever just one person got to know him, he became part of a team. I really appreciated all the efforts that were put into the performance and how the audience was captivated with the drama that this team performed. I hope that I get the opportunity to see this talent again in the future. Who knows, one day, I may see my son performing with this magnificent team. I support the efforts of this group and the leaders that are making it a reality. Keep up the great work. Additionally, I enjoyed reading the excellent letters that were displayed on the walls.

Professor Dean Hill Rivkin, Distinguished Professor of Law, University of Tennessee

I am a law professor who has been involved with special education cases for years, working with other lawyers, advocates and families who are attempting to secure an appropriate education for their children. Unfortunately, I have seen far too many cases where these attempts have proved so unavailing that families have been compelled to take the reluctant step of initiating a lawsuit. All lawyers in this field know the importance of legal standards in these situations, and we know only too well how high the stakes can be for the children involved. The education a child with disabilities receives can make all the difference for that child's future for good or ill.



Because of my engagement with the world of children's educational rights, I heard about the performance event that Barbara Dyer was arranging at the LRE for LIFE conference. My spouse, herself a special education lawyer, and I decided to come that night to support Barbara's work. We really didn't know what to expect. That made it all the more exciting when we saw what she and her team had brought together, and how much it meant to the people who were gathered there.

Barbara Dyer's IDEA Project --the graphics, the language, the dance, the people -- moved everyone who participated in this event. It was creative advocacy at its best. If only legislators, administrators, and educators could see this powerful testimony, the state of special education --and the future of our children-- would improve, no question.

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[Michelle Rosenberg](#), Project Participant and Dancer

III. Member of the dance group

Michelle Rosenberg , dancer

My name is Michelle Rosenberg and I was one of the dancers in the IDEA inclusion project. I stumbled onto the website Wayne made abou event, and I decided to send him and Barbara some comments from the inside of the project. They passed my comments along to Fran, and I am happy for her to use them here on her site as well.

To be honest about it, my performance in the piece was a short one (less than 10 minutes, if memory serves), and it was several years back. The memories had faded in my mind until I stumbled onto Wayne's website about the performance and performers. Then I found it easy to remember. In fact, the whole sequence came back to life for me -- from the first time we all got together at the Candy Factory to meet each other, do a few exercises in improv (one of Marks great points, and also, or so it seemed to me, one of his favorite aspects of dance) and just try to get a feel for our different styles, all the way to the final bow. Over the weeks of rehearsals, we all worked together and made the project into a meaningful and worthwhile adventure. We got rave reviews -- from each other.

Each rehearsal, we all showed up, prepared to work. Each of us had our own little accessories, from me with my semi-professional dance legwarmers to India with her pink pom poms. We put to use whatever made us feel more in tune with our goal of a choreographed dance recital with emotion and talent.

Of course, things along the way became rocky. We sometimes had tension between us because of something we just couldn't seem to get. Some of us struggled with restlessness. But when the end applause came, and the look of happiness was apparent on everyone's face, especially India's, we all knew the effort had been well worth it.

Paul, Fantasia, John, Amber, India, Mark, Wayne, and I all combined our talents, and I think we ended up making one heck of a project. All of the other people involved in different ways could only help to make it even better and stronger. What a wonderful experience.

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Barbara Dyer

B. A foundation for future work

Another feature of the project that I am particularly happy about is the possibility of additional work in the future. By staying focused on the basic goal, I believe that we were successful in creating a creative platform that we can build upon and further develop as we decide the direction our work should go in. Because Wayne and I will remain active in advocacy networks, we will naturally be aware of other venues where the Inclusion Project might make a significant contribution.

For instance, the visual exhibit can be stored and used again. The panels were designed to store and transport easily, and we can construct additional panels if we decide that would be a good idea. As long as we are careful to develop panels that are universal and that express an up-to-date philosophy, this part of the project can be viable for a long time. Wayne has also created an [Inclusion Project Website](#) that will be another way to share the value of this undertaking.

Likewise, the basic structure and method that Mark used for developing the children's dance piece is something that I believe could be used again or adapted for a different time and place. One possibility we have discussed would be for Mark to travel to a different community and do an artistic residency there with a group of local children and parents, helping them to put together their own dance and performing it for their own community. That kind of residency would require additional funding for Mark's time, but it is a wonderful model, and with some attention to fund-raising, it should be possible.

[\(Teacher comment on starving artists\)](#)

This project has provided another vehicle that can further the work that our family and friends have pursued for many years. It has been a wonderful way to softly make a statement about a subject that is often controversial. We found that we could expect favorable reactions when the message came in this form. The children were fantastic and can feel very proud of their effort.

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Barbara Dyer

C. Why community legal education on this issue is important

I would like to say a few things here about why I think a project like this matters. To me, it was more than just an interesting diversion or recreational activity. I believe that education about the legal rights of children with disabilities in the educational system is high-priority work that deserves a lawyer's time. Of course there are many ways that lawyers can contribute to the goal of making children's educational rights more real. We need litigators who will represent children and their families. We need counsel for school systems who will press educational professionals to take their obligations seriously. We need lawyers involved in legislative drafting and legislative advocacy. But I also think we have a special and strong need for lawyers to be involved in designing and carrying out educational projects with the families of children with disabilities.

The community that is most directly affected by the IDEA is generally a disempowered group. People who either have disabilities or have family members with disabilities are burdened with many extra responsibilities on a daily basis that others do not have. The disabilities themselves require compensatory and rehabilitative actions that are draining of energy and time on families.

Often it is all that a family can negotiate to tend to all of the therapy, medical and educational appointments required of them. Families with low incomes and little formal education have a particularly difficult time navigating the system, and families whose race, language or ethnicity is not the dominant one also experience special problems. Many families of all kinds lack the time, the skills, or the resources to research what their rights are, and in most such cases they rely on the professional authorities that they encounter to educate them. Depending on how reliable the professionals are who families encounter, the families may benefit greatly or not at all from that contact.

These are the situations of many of the families that I advocate for and with. Many times in working as a lay advocate, or more recently as a law student intern, I have met with families to plan the approach that they want to take, and have accompanied them to their meetings with educational professionals. Many of these families knew enough to seek help. However, they seldom know enough when they come to me to understand how to change the outcomes for their children. They need education.

Actually, as I think about it, I believe that accompanying families to their meetings with school officials and teachers is itself a form of community legal education. It allows families the support that they need and at the same time provides them with a model to attempt the next time they have the same issue. The more that they listen to the arguments that typically take place back and forth in such a meeting, the better they come to understand their children's rights. But I cannot accompany every family in need, even in my own community. And that is why I think the website we are planning, and activities like the Inclusion Project are so important. ([Teacher comment on cognitive apprenticeship](#))

Unfortunately, with regard to special education law, the record is pretty clear that those tending the resources have too often been less than genuine in many situations where families seek educational services. Not only have professionals refused to render services in some cases, but they also sometimes deny that such services even exist. It is not uncommon for a professional to claim that a child seeking services is not entitled to them because the child, although disabled, has not satisfied the IDEA's additional test of eligibility -- that is, that the child has suffered an "adverse educational impact." A family can be hard pressed to dispute this claim when it is made by a professional educator. In many cases, families faced with a statement to that effect simply throw up their hands and give up the quest for additional services, without probing to see if the statement can be adequately supported. Sadly, some educational professionals have been "blessed" by this reaction so many times that they appear to have come to depend upon it. But surely this practice is not a reasonable or equitable way to distribute services.

For these reasons, it seems to me that any legal awareness that can be promoted among parents of children with disabilities is highly worthwhile. Not every educational professional is trying to be disingenuous, of course. Sometimes those who serve children simply follow what has customarily been done in the past. And sometimes there are cases where the line is subject to good faith debate. Whatever the motivations or understandings of the professionals involved may be, and whatever the merits of a particular case, I have observed that when an educated individual with an awareness of the law enters the scene to advocate for a child and to claim that the child is entitled to something more or different educationally, that entry and participation can be enough to change the trend in a given environment.

It is clearly better for more people to be familiar with the educational rights that exist for people with disabilities. Likewise, all parties who are aware may plant the seed to inquire whether a solution exists when others encounter an educational problem. Only a few parents will have the privilege of learning through being accompanied by a knowledgeable lawyer or other support person. Lawyers or lay advocates who can and will accompany parents through the process of seeking appropriate services for their children are few and far between. And irrespective of questions about the scarcity of such services, helping parents to be well-informed and self-reliant has important advantages of its own for them and for their children.

My final reflection is simply that it was a great pleasure for me to work on this project with the children and their families, with Mark Lamb, and with all the members of my own family. I hope that I will be able to continue doing this project and others like it in the future.

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Preview Performance of the "IDEA Inclusion Project"

This performance and multimedia visual arts exhibit is a result of the relationship between UT Law's Community and Legal Education curriculum and Knoxville American Festival Project. The project is a collaboration of AFP partner-Circle Modern Dance represented by Mark Lamb; M. Wayne Dyer of ETSU's Dept. of Art and Design, Barbara H. Dyer and regional stakeholders



Individuals with Disabilities Education Act (IDEA)

"(c) FINDINGS- The Congress finds the following:
(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." 20 U.S.C. 1400(c)

"(A) IN GENERAL- A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school." 20 U.S.C. 1412(a)(5).

"(5) LEAST RESTRICTIVE ENVIRONMENT-

(A) IN GENERAL- To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 20 U.S.C. 1412(a)(5).

Ballroom, Hilton Downtown

Knoxville, Tennessee, 5:15 PM

Thursday November 1, 2001-

Reception of the LRE for Life/STEP Families and Schools Together (FAST) Conference

The IDEA Inclusion project thanks you for your support of IDEA and Children with disabilities by creatively presenting the law that allows individuals with disabilities to learn, work, and play alongside their peers, therefore, teaching understanding, acceptance, and the celebration of diversity.

The IDEA Inclusion project presents the

Award of excellence

to:

India Dyer
Dancer



idea Inclusion Project
individuals with disabilities education act

Director of IDEA Inclusion Project

Choreographer of IDEA Inclusion Project

Multi Media Artist of IDEA Inclusion Project

El Proyecto De Inclusion IDEA

La ley federal "Individuals With Disabilities Education Act (IDEA)" manda que cada niño o niña con impedimento físico o retraso mental obtenga una educación gratis y apropiada en las escuelas públicas. La ley IDEA manda programas educativos individualizados (IEP's) y servicios educativos relacionados a la educación especial.

Estos programas deben ser estructurados de una forma que satisface los requisitos únicos de cada niño o niña. Las escuelas públicas tienen la obligación de educar a todos los niños, incluido los niños con impedimentos, en clases regulares. Se ha demostrado que en ese ambiente los niños con impedimentos o retrasos se desarrollan mejor, y su progreso se puede medir a base regular. La ley IDEA también requiere que las agencias educativas (local education agencies (LEA's)) adquieran, diseminan y adoptan costumbres educativas que logran buen progreso educativo para los niños con impedimentos. Ha sido muy difícil hacer cumplir ese requisito de la ley IDEA.

Dance, un grupo de actores asociados con el Knoxville American Festival Project; estudiantes de derecho en la Universidad de Tennessee; y otras personas interesadas en la educación de niños con impedimentos o retrasos. También fueron incluidos personas con retrasos mentales y impedimentos físicos que viven en esta parte de



Tennessee. El proyecto ha sido un intento de expresar las experiencias de familias con hijos impedidos o retrasados que han usado la ley IDEA para asegurarles a sus hijos los derechos educativos bajo esa ley.

El propósito del proyecto era la producción de una función creativa y representativa que celebra la diversidad y inclusión de personas con retrasos o impedimentos. Los aspectos artísticos del proyecto informan al público sobre los derechos de los niños con impedimentos o retrasos acerca de una educación apropiada y gratuita en escuelas públicas. Nosotros también les queremos dar a las personas con defectos la oportunidad de ser oídos y vistos en una función dedicada a ellos.

Si quisiera compartir sus experiencias con las personas del Proyecto de Inclusion IDEA, por favor llame o deje un mensaje con Barbara o Verena. Teléfonos: (865) 637-8714 o (865) 256-0329. Nosotras les



vamos a contactar para fijar un día conveniente para reunirnos y para que pueda contarnos sus experiencias. Si prefiere compartir sus experiencias sin darnos su nombre, nosotras respetamos su deseo de quedarse anónimos. Haremos todo esfuerzo posible para acomodarlos a Ustedes.

Si tiene problemas con su escuela pública o con los servicios de educación especial, por favor llame:

STEP (Support & Training For Exceptional Parents)-(423)639-0125 or (800)280-7837
East Tennessee Resource Center-(TN Department of Education) -(865)594-5691
ETTAC-East Tennessee Technology Access Center-(865)219-0130
NAPPE-Network of Advocates for Promising Practices in Education- (423)928-8311 x25
Tennessee Protection and Advocacy, Inc.-Knoxville- (865) 689-9020
LAET-Legal Services of East Tennessee- (865)637-0484

This brochure is produced as a service of the Tennessee Disability Coalition, a statewide alliance of advocacy, planning, service provider and professional organizations committed to influencing society to *value, include, and support* people with disabilities.

This and other Coalition awareness materials are produced under a grant from the Tennessee Developmental Disabilities Council. The Coalition is a member of Community Shares, a funding federation supporting social justice and social change organizations in Tennessee.



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Talking About Disability



A Guide to Using Appropriate Language

Rules for Appropriate Language

USE

AVOID

person with a disability / has a disability
people with disabilities / have disabilities
disabled person / people (less preferred)

the disabled / the handicapped
invalids, patients
crippled, deformed, defective (NEVER)

people without disabilities
typical person
non-disabled people (less preferred)

normal, healthy, able-bodied

wheelchair user / uses a wheelchair

wheelchair-bound / confined to a wheelchair

congenital disability / birth anomaly

birth defect / affliction

has cerebral palsy (CP) or other condition

a victim of cerebral palsy

has had polio / experienced polio
has a disability as a result of polio

suffers from polio / *afflicted with* polio
post-polios (as a noun referring to people)

people who have mental retardation (MR)
person with mental retardation
mentally retarded person (less preferred)

the mentally retarded / mentally deficient
a retardate / a retard (NEVER)
a feeble-minded person

child with a developmental delay (DD)
person with a developmental disability

person with Down Syndrome

the Down's person / Mongoloid (NEVER)

person who has epilepsy
people with seizure disorders
seizure / epileptic episode or event

the epileptic (to describe a person)
the epileptics (to describe people)
fits / epileptic fits

people who have mental illness
person with a mental or emotional disorder

the mentally ill
crazy, psycho, mental case (NEVER)

people who are blind / visually impaired
person who is hard of hearing

the blind / blind as a bat (NEVER)
hearing impaired (translates as "broken hearing" in sign language)

person who is deaf / the Deaf (Deafness is a cultural phenomenon and should be capitalized in those instances.)

deaf-mute
deaf and dumb (NEVER)

speech or communication disability

tongue-tied, mute

Guidelines for Talking about Disability

1. Do not refer to a person's disability unless it is relevant.

2. Use "disability" rather than "handicap" to refer to a person's disability.

It is okay to use "handicap" to describe accessibility accommodations, such as handicap parking; but it is better to use "accessible" in those instances. It is also okay to say that a person is handicapped by obstacles, such as architectural barriers or the attitudes of ignorant or insensitive people. Never use "cripple/crippled" in any reference to disability.

3. When referring to a person's disability, try to use "people first" language.

In other words, it is better to say "person with a disability" or "man who has autism" rather than "a disabled person" or "an autistic man," particularly in a first reference.

4. Avoid referring to people with disabilities as "the disabled, the blind, the epileptics, the retarded, a quadraplegic," etc. Descriptive terms should be used as adjectives, not as nouns.

5. Avoid negative or sensational descriptions of a person's disability.

Don't say "suffers from," "a victim of," or "afflicted with." Don't refer to people with disabilities as "patients" unless they are receiving treatment in a medical facility. Never say "invalid." These portrayals elicit unwanted sympathy, or worse, pity toward individuals with disabilities. Respect and acceptance is what people with disabilities would rather have:

6. Don't portray people with disabilities as overly courageous, brave, special, or superhuman. This implies that it is unusual for people with disabilities to have talents or skills.

7. Don't use "normal" to describe people who don't have disabilities. It is better to say "people without disabilities" or "typical," if necessary to make comparisons.

8. Never say "wheelchair-bound" or "confined to a wheelchair." People who use mobility or adaptive equipment are, if anything, afforded freedom and access that otherwise would be denied them.

9. Never assume that a person with a communication disorder (speech impediment, hearing loss, motor impairment) also has a cognitive disability, such as mental retardation. On the other hand, people with mental retardation oftentimes speak well.



Times have changed for people with disabilities...

Life for most people with mental or physical disabilities is vastly improved over what it was twenty or thirty years ago.

The Americans with Disabilities Act and other federal and state laws assure that people with disabilities have the same basic rights as people without disabilities.

Some things have been slower to change; namely, attitudes and perceptions about people with disabilities. Ignorance and discrimination can be serious impediments to achieving integration, productivity, and independence for people with disabilities.



...but language lags behind



The use of outdated language and words to describe people with disabilities contributes greatly to perpetuating old stereotypes. No longer should we view people with disabilities as helpless or tragic victims.

Awareness is the first step toward correcting this injustice. If public opinion about people with disabilities is to be brought up to date, the public needs to hear and learn to use appropriate language.

It is especially important for the media, elected officials, public speakers, and others in leadership positions to portray people with disabilities sensitively and realistically.

This brochure is intended as a guide to using descriptive words and language when talking to or about people with disabilities.

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artifacts and images: IDEA Inclusion Project



Our daughter India and some of her school friends on her 16th birthday

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artifacts and images: IDEA Inclusion Project



Once we had recruited the group of dancers -- some of whom had disabilities and some of whom did not -- choreography and rehearsals could begin . . .

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project story: Tennessee Immigrants and Criminal Justice

McKenna Cox, Kimberly Pride, and Michael Wright

B. Background

An important piece of the context for this project is the fact that Tennessee, like many other states in the Southeastern U.S., is currently going through a period of rapid demographic change. Over the past decade or so, the state has begun to receive large numbers of foreign-born Latina and Latino immigrants. Because this shift has been so rapid, it has posed new challenges for many institutions and entities, including schools, health-care facilities, the civil and criminal courts, public agencies, and virtually all the professions. As we pursued this project, we could see that there was a need for accessible information about the magnitude of these changes in our state, and eventually it was decided that Professor Ansley's research assistant would survey some of the research on these trends. To see Spring Miller's summer 2004 report on this survey, [click here](#).

In late 2003, when Professor Ansley was seeking out potential projects for her spring 2004 class, she learned that Latinos Unidos had been working with several other immigrants'rights groups in Tennessee to find ways of exposing and addressing problems in the relationship between Tennessee's burgeoning immigrant and refugee populations and the criminal justice system in our state. For instance, Latinos Unidos had joined with the new statewide [Tennessee Immigrant and Refugee Rights Coalition](#), the Nashville-based [Somali Community Center](#), and the Memphis-based Fuerza Latina Unida to submit a grant proposal to the Funders Collaborative for Racial Justice Innovation [link to the RFP already on the Artifacts and Images page], seeking support for a participatory research project that would focus on Tennessee immigrants and refugees and their relationship to the criminal justice system.

At the time, Latinos Unidos was still waiting for word about the fate of that grant proposal, but they were eager to find ways to move forward in some modest way in the meantime. When the group learned that law students might be available to begin gathering information and making recommendations for future research, they were enthusiastic about that idea and agreed to put together an advisory committee that could work with a law student team.

After some initial conversations between our team and the Latinos Unidos advisory committee, it was agreed that we would launch a pilot study that could provide preliminary information from East Tennessee. We also hoped that it would serve as support for the fuller, more participatory statewide project in the future if the partners succeeded in securing the resources for that effort. (Every investigation must begin somewhere, of course, and before launching into any major research endeavor, researchers should first test their ideas. When theory meets reality is when a researcher really begins to learn.)

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project story: Tennessee Immigrants and Criminal Justice

McKenna Cox, Kimberly Pride, and Michael Wright

C. The interviews

From the beginning of this project Latinos Unidos was eager to both share and receive information. Our group met periodically with an advisory committee from Latinos Unidos that guided our work on the project. The committee was comprised of people with a great deal of experience working with immigrants. They shared information about their experiences that helped mold the project from the beginning. Additionally, some of them had experiences with the criminal justice system that provided a starting point for our research.

When the law students initially met with the oversight committee, the group identified a few key people to interview first, with the idea of flagging a set of issues that would become the focus of the subsequent interviews. After these initial interviews, the students met again with the committee to share what had emerged thus far as major themes for the project. Those themes included a lack of interpretation for non-English speakers both in the courts and on the streets, cultural misunderstandings and lack of education on both sides, and the deportation of undocumented immigrants as the result of simple traffic stops. We also discovered the negative effects these problems have on police, lawyers, and immigrants and their families. The group discussed the types of people that would be best to interview in order to explore the identified issues.

From there, we began arranging as many interviews as possible, and eventually we were able to talk with a wide variety of people. For instance, we interviewed an assistant district attorney, a public defender, a Spanish-speaking member of the private criminal defense bar, a court interpreter, two jail chaplains, a bail bondsman, a criminal court clerk, an ex-police officer, as well as immigrants' advocates and immigrants themselves. We were not always successful in securing interviews. For example, despite repeated attempts, we never managed to schedule conversations with a current on-street police officer, or with a jailer. We did our best to work around this.

The interviews revealed many different perspectives and painted a complex picture of rapid change, uneven accommodation, and multiple stress points. We drafted an interim report and later a final report for Latinos Unidos, and it was not easy to draw out unified lessons from what we had learned. However, by the end of the semester, we framed our major findings as the following:

1. Inadequate interpretation and translation
2. Need for education of both immigrants and criminal justice personnel
3. Exploitation and victimization of immigrants
4. Relationship between local law enforcement and immigration authorities
5. Profiling and racism

1. Inadequate interpretation and translation

The issue of language and communication barriers provides an excellent example of the phenomenon of different perspectives that we mention above. Almost everyone we interviewed identified the language barrier as one of the most significant problems that Latinos face when they are involved with the criminal justice system in some way. But the problems presented by language differ depending upon which side of the barrier a person is on.

Persons accused of crime who do not understand the system in which they find themselves are more likely to be confused and scared. These problems are most significant for undocumented immigrants. Most of them lack even a basic understanding of a court system that is complicated to begin with and is particularly ill-equipped to deal with people who do not speak English. It is obvious from our research that this lack of understanding is much deeper and more significant than language alone. The complexities of the criminal justice system are difficult for English speakers to understand, and overwhelming for a non-English speaker who fears deportation.

For monolingual-English speakers who work in the system and nowadays frequently encounter non-English speakers, the feeling is primarily one of frustration due to a lack of on-site interpreters or other language-related resources. This frustration manifests itself in many ways. Some seem to feel very strongly that people who are here without proper documentation simply should be deported, and their frustration is over the fact that so many undocumented people are now living and working here. When people like that encounter someone who does not speak English, their first reaction is likely to be determining the person's status and contacting federal immigration officials.

For others, the frustration grows more from the basic inability to communicate. The serious lack of resources available to police officers, jail personnel, and court personnel to assist in communicating with Spanish speakers makes any communication difficult. We learned that police often want to talk to non-English speaking immigrants in the field but do not receive adequate training in languages to do so. For a street-level officer, arresting the non-English speaker may simply constitute the easiest and least risky course of action. Most people we spoke with in various positions within the system seem to think that they are doing the best that they can with the resources available.

When we asked for concrete suggestions from immigrants and workers in the criminal justice system on how best to address the language problems they identified, people gave answers as diverse as create an iconographic language to increase understanding between all non-English speakers and law enforcement officials; recruit and train more bilingual police officers; and provide a full-time translator in the courthouse as a resource for anyone who needs him or her during the day.

The stories we heard about lack of basic communication at the various stages of criminal proceedings raised serious questions for us about due process. Nevertheless, we also observed that some find no particular urgency about the situation. Many in the court system seem to feel that if the charges against an immigrant are not "serious," it is all right if the immigrant

does not get an interpreter in court.

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McKenna Cox, Kimberly Pride, and Michael Wright

D. Summing up

All of us feel good about this project. It dealt with important issues, and we believe we were able to make a significant contribution through the interviews we gathered and analyzed and the other information we provided. At the same time, we are all aware that this was only one small step, and much more is needed. On the research front, we feel we only began to sketch a picture of what is going on and how the different players in the criminal justice system view the situation. Further, research only pays off if it is followed by action, and we can see how many difficulties and obstacles face those who are working to improve the situation facing low-wage immigrants in Tennessee and elsewhere. One of us said in a report to Professor Ansley:

All of this information must be compiled in a meaningful way and used to educate people on both sides of the fence, immigrant and citizen, cop and judge, on the realities of the situation. People need to know what their rights and the rights of others are. I am hopeful that immigrant advocates in Tennessee will be able to continue this research, with or without the law school's help, to achieve these goals. Change will not happen overnight, but with our help and cooperative research, we can all make a difference in our area.

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**Latinos Unidos Pilot Study:
Immigrants and the Criminal Justice System in East Tennessee
*Preliminary Findings***

Submitted by:

**Fran Ansley, Law Professor, University of Tennessee
University of Tennessee Law Students:**

**McKenna Cox
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**With very helpful assistance and advice from Latinos
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And research assistant Spring Miller

Working in cooperation with three law students and a law professor from the University of Tennessee, Latinos Unidos has initiated a pilot study to examine the relationship between immigrants and the criminal justice system in Tennessee, and to help lay plans for a larger project that would include collaboration with the Somali Community Center and Fuerza Latina Unida.¹ The main goal of the pilot phase is to identify specific areas that need further research and that can in turn serve as starting points for the larger project.

While this phase has been limited in scope, the research team has already discovered that a whole new world of people, social practices, and legal (or pseudo-legal) norms are growing up here in this mid-South heartland region. We are discovering many disturbing practices that appear to be perfectly legal under current law, but we have also identified what seem to be definite patterns of constitutional and Title VI violations that are going largely unnoticed and unremedied.

During the initial phase of our project, the following have emerged as major issues contributing to these problematic new dynamics and outright legal violations:

- 1) lack of knowledge in the immigrant community, amongst criminal justice system personnel, and in our society as a whole about immigrants' rights;
- 2) an ill-defined, unpredictable, and often arbitrary relationship between local police forces and federal immigration authorities;
- 3) racial profiling practices, and
- 4) a lack of adequate translation and interpretation throughout the criminal justice system.

Below is a brief description of our methodology, followed by an outline of the ways in which the above-listed factors come into play in immigrants' encounters with the criminal justice system.

Methods

Our pilot study focused primarily on Knox County but also extended somewhat into Blount County. Interviews have been conducted with a number of people who witness, experience, or shape immigrant community interactions with the criminal justice system in a variety of capacities, including,

- A criminal defense lawyer
- A district attorney
- A court clerk
- A bail bondsman
- A member of the immigrant community
- A service provider, and
- A community advocate.

¹ See letter of support from Fran Ansley for further information.

Also feeding into the research were past experiences of some members of the research team, resource people, and Latinos Unidos members who were invited into the process. For instance, one law student had participated in a police ride-along and served as an interpreter in court, and another had worked within the local juvenile justice system. Several Latinos Unidos members have extensive knowledge of the local dynamics of police-community interactions.

In addition to conducting interviews, the group also developed a brief survey to gather more quantitative information about local immigrants' experiences with and perspectives on the Tennessee criminal justice system.² Quantitative responses to the survey were difficult to interpret given irregularities in their completion. However, responses to the survey's final open-ended question revealed that racism, a lack of respect, language barriers, a lack of understanding of legal terminology and criminal procedure, and capricious behavior by some individual law enforcement officers are all perceived as significant problems by immigrant community members. The survey was piloted at a Latinos Unidos meeting, and we learned a great deal from the problems we encountered with this first experiment in creating, administering, and interpreting a survey tool. We look forward to refining this instrument and working with Latinos Unidos to recommend ways of using surveys effectively in the future.

Preliminary Findings

How do immigrants enter the system?

There are a number of factors that make it more likely that immigrants will become involved in the criminal justice system.

- *"Driving while Mexican."* Both immigrants and some attorneys have reported that racial profiling is a reality.
- *Lack of a driver's license or other identification.* Immigrants often face difficulty obtaining a driver's license, and this is largely due to communication issues and a lack of knowledge on the part of DMV workers about what documentation is needed to obtain a license.
 - A criminal defense attorney explained that when an undocumented immigrant is stopped without a license, it creates an opportunity to be deported.
 - A district attorney explained that when a person's identity is in question, the person's risk of being investigated further for immigration violations (and perhaps deported) automatically increases.
 - When a person is taken to jail and does not have proof of identity, the risk of the BCIS' being called likewise increases.
 - Without a driver's license or identification, it is difficult to open a bank account. Meanwhile, however, carrying around large sums of money is often perceived by law enforcement officers as an indication of criminal activity.

² Copies of the survey and the accompanying letter are attached.

What happens once immigrants are involved in the system?

Once they are “in the system,” it is likely that immigrants will be treated poorly. This is an area where education is necessary for both immigrants and all those involved with the criminal justice system.

- *Lack of knowledge regarding the basic rights of immigrants in particular and the criminally accused more generally.* Both immigrants and criminal justice system personnel are often without the most basic knowledge of immigrants’ legal rights and legal vulnerabilities. This can lead to misunderstandings and frequently renders immigrants susceptible to abuse. For instance,
 - There have been complaints of a bail bondsman's collecting the entire bond from individuals, giving them a receipt for a certain percentage and fee, and never refunding the actual amount of the bond.
 - Very few jailers speak any Spanish at all, and rely on fellow prisoners to interpret for Spanish-speakers. Many times the fellow prisoner simply tells the Spanish-speaking prisoner to plead guilty and he will be let out. The immigration consequences of even very minor criminal convictions or guilty pleas can be very severe, including lifelong bans from legal entry into the U.S. and harsh penalties if they are re-captured here.
- *Threat of Deportation.* There is an overarching fear within the immigrant community that any involvement in the system will lead to deportation. Given the active but ill-defined interface between local law-enforcement authorities and immigration authorities, this is not an unfounded fear.
 - Interviews with a local DA, a PD, and a judicial commissioner reveal that none of them knows when the BCIS is called or brought into the arrest of an immigrant suspected of being undocumented.
 - A criminal defense attorney suggested that whether or not the BCIS is contacted depends upon who is working the jail at the time of the arrest.
 - It is the opinion of a bail bondsman and several community advocates that the BCIS is called by the jail if the prisoner has a Hispanic name and does not speak English. Some jailers call; others do not.
- *Lack of Interpreters/Translators.* Almost everyone interviewed identified this as the most serious need within the system. There are very few qualified interpreters, and often those that are used must deal with conflicts of interest and other obstacles.
 - A local defense attorney went to a rural county to represent a Latino client. While there, he observed the court interpreter, a beloved inmate named “Taco.” The attorney listened to Taco interpret in several cases. He reported to the judge that Taco’s “interpreting” skills were quite deficient. When his client’s case came up, the local defense attorney said to his client, “You have been charged with vehicular homicide. This means you could be sentenced up to 15 years in prison,” etc. Taco told the client, “Just say you are guilty and they will let you go and you don’t have to pay court costs.” The attorney, who speaks Spanish, told the judge what was going on and asked to interpret for his client. The judge said that if the attorney interpreted that it could be an ethical violation. The attorney said he understood and translated anyway because there was no other way to

- let his client know what was going on. The next time the attorney was in that court Taco, was still translating.
- When Latinos are victims of crime, the police report is often an inaccurate account of what actually happened. Because there are so few interpretation resources, the officer who took the report may not have understood what actually happened.
- The interpreter for Knox County observed that the problem with using unofficial interpreters is that many people who speak Spanish do not understand legal terms. She has been doing it for nine years and she is still learning new legal terminology.
- *Prolonged detention.* For many reasons, immigrants often face long detention times.
 - A man was arrested for traffic violation and then sent to New Orleans and Los Angeles with no contact with his family before deportation. He was in New Orleans for 3 months and then in a Los Angeles facility for 5 months.

What are the ramifications?

The problematic relationship between immigrants and the criminal justice system has a number of consequences for individuals, families, and communities throughout East Tennessee.

- *Individual and Family Hardship:* As noted above, immigrants who find themselves caught up in the criminal justice system in Tennessee often face the threat of prolonged detention and deportation with few support mechanisms or even a clear understanding of what is happening to them. The experience of being subjected to this interlocking maze of local criminal proceedings and federal immigration processes can be devastating to immigrants and their families, as they endure long periods of separation, economic stress, and uncertainty about their future.
- *Alienation from law enforcement and other public service support agencies:* Because of their fear and distrust of police and other local community institutions, many immigrants who become victims of crime do not turn to law enforcement or other community support services.
- *Climate of Fear:* The rapid growth of the Latino immigrant population in east Tennessee in recent years is leading to the emergence of new social dynamics in local communities throughout the region. However, new immigrant communities and their experiences have been largely invisible in public spaces and discussions. The daily occurrences and practices uncovered in this pilot study help in part to explain the invisibility of these communities. Even minor encounters between immigrants and local law enforcement agencies often represent confusing and frightening experiences at best, and a first step towards deportation at worst. This reality has contributed to a climate of fear that inhibits participation of immigrant communities in local civic spheres and in decision-making processes that affect them. This climate of fear also reinforces the social isolation of new immigrant communities, impeding their capacity to bridge gulfs of understanding and build alliances with potential allies among native-born populations in the state.

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student reflections: Tennessee Immigrants and Criminal Justice

B. An unexpected high point

Two of us had an experience during the course of the project that made enough of an impression that we want to highlight it here. One of our assignments right from the start had been to seek out conversations with members of the immigrant community, but this turned out to be more difficult than we had first assumed. Eventually, however, we were able to arrange a meeting in which we talked with three undocumented immigrants. We did not record this conversation, nor did we write it up formally for Latinos Unidos. We treated it as something different. We ended up sitting in a room with food, an interpreter, and no outline of planned questions before us. The conversation went both ways, since we and they alike were interested in learning more about each other's lives. Below are descriptions and reflections adapted from what each of us wrote down afterward.

The most cherished experience I will take away from this effort is the time I was able to spend with the three Central American immigrants. After various attempts to find a way to talk directly with some undocumented individuals, finally we were able to arrange to meet with three brothers, all living together and working on various construction sites in East Tennessee.

I remember the weekend well, because my best friend was visiting me that weekend from Philadelphia. The meeting with the men was scheduled for a Saturday evening, and I was initially not pleased with the timing. After some reflection, however, I was able to see the bigger picture. There I was, wanting my three days off to visit with a friend who had flown in from a distant city to see me. Then there were these three brothers who work six or seven days a week and have little time to do anything outside of their jobs. Saturday night was literally the only time they could rely on being free for a meeting. Each day they work hard with the hope of earning enough money to allow them to return to their homes and survive. One of them was separated from his wife and children.

Upon arriving at the place where we had agreed to meet, I had in mind that the conversation would last for an hour or so. However, after we began talking and became comfortable with each other, I found that I did not want to leave. The meeting lasted several hours, and it was approaching midnight by the time we all decided that we had better stop.

First of all, just the experience of being around these men was rewarding. Then, to engage in a conversation with them about their experiences here in the United States was amazing. I had read accounts from immigrants and had seen stories in newspapers and online, but none of that compared to the experience of hearing directly from immigrants. I was able to see their faces as they explained how they felt stupid and embarrassed at times as a result of some of their experiences, and the way that some Americans had responded to them. It really affected me. I do not know if I can put into words the shame and humiliation I feel when people who look like me are so cold and downright hateful. The ignorance with which people approach minority populations in general is astounding. Through this conversation, I was able to understand (even if on a superficial level) what it is like to live in the United States as an immigrant.

* * *

The most rewarding part of the whole project for me was our interview with three undocumented immigrants. Even though they did not have any experiences with law enforcement to share with us, the interview put the project into perspective on many levels. It put a face on the "immigrant community" that the project was designed to help. The interview also provided insight into why such help is important. The interview helped me understand why so many people come here without proper documentation and how that status affects their daily lives.

While the brothers that we spoke with explained that they were not consciously afraid of deportation for every minute of every day, they clearly have structured their lives in such a way as to avoid it. They live their lives here as quietly as possible, going back and forth from home (which they jokingly refer to as the convent") to work. They avoid any interaction with police. One of them witnessed a burglary once, and when the burglar found out that the brother had gotten involved, she threatened to have him deported. Because of the threat, they moved! They explained that even if they were victims of crime, it is unlikely that they would report it for fear of drawing too much attention to themselves.

This interview with undocumented immigrants also identified larger immigration law issues than just the criminal justice system, and it helped me put our work into a larger perspective. Specifically, it became clear to me that people are literally dying to come here every day just to work. The reward of being able to work in this country far exceeds the risks that are posed by coming here and by living here illegally. They all agreed that if one of them were to get deported before he had succeeded in saving enough money, he would come back to the United States as soon as possible. As long as economies in other countries are incapable of supporting their own citizens, any efforts made by the United States to keep people out are futile. All that the immigration policies actually seem to do is support a caste system in the United States and foster a sense of hostility toward those who are labeled "illegal."

* * *

We really did not anticipate that a single human conversation, and one that did not focus all that much on the specific subject of our research project, would have such an impact. In fact, it made

a big difference to our understanding of the issues, and it significantly influenced our perspective as to what is happening with immigration in the world today. We are grateful to these three brothers for trusting us enough to share their stories.

([Teacher comment on first-hand contact with undocumented people](#))

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collaborator perspectives: Tennessee Immigrants and Criminal Justice (cont'd)

Jennifer J. Rosenbaum, Staff Attorney/ Skadden Fellow, Southern Migrant Legal Services, Nashville

As someone who was involved in the statewide effort to secure funding for a larger participatory and action project, I was both an observer and beneficiary of this project. In the beginning, working with law students to conduct informational interviews that begin to map the landscape of immigrants' experience with the criminal justice system was important simply because the students were available and energetic. Until further funding was secured, no community organization could commit staff time to the project. Because the students were able to start working within the existing institutional framework and without additional funding, work on the project began. Because the local communities expressed and continue to express urgency about the problems, it was particularly important to begin as quickly as possible.



Additionally, a strong needs assessment is an important component of any funding request. The students' work enabled stronger future grant proposals that will hopefully secure funding to pay organizers within existing community organizations, to build on the students' work, and also to create a larger network of collaborators for racial justice in Tennessee.

The students interviewed a wide variety of actors involved in the criminal justice system. As legal professionals, they were able to build rapport and ask complicated and sometimes uncomfortable questions about the criminal justice system in a way that kept their interviewees at ease. Although none of the students had a background in this area of law, through this project, they learned firsthand how neutral laws, badly written laws, the failure to enforce laws, and even the bureaucracy of institutions, can all contribute to a systemic failure of justice. Certain violations, particularly how the lack of language capacity in various parts of the system prohibited immigrants from communicating with others, including their lawyers, struck the students as outrageous.

When summarizing their findings, the students emphasized that the inability or failure to obtain a drivers' license was a gateway through which many immigrants were being drawn into the criminal justice system with its myriad of problems. This ability to take facts presented in various narratives and arrive at this legal and institutional analysis is a skill that will serve them well and is often overlooked in legal training where facts too often come already tucked neatly within legal decisions.

At the same time, having law students organizing the interviews without the time or infrastructure to be deeply grounded in strong community organizations poses challenges that must be considered by the larger collaborative. For instance, community members may prioritize the issues that they are facing differently and may emphasize different issues. After attending a community meeting with the students, I left with a sense of urgency about several legal issues which I investigated that were different than those that were analyzed in the students' own preliminary report. To insure that a final report meets the informational needs and accurately depicts a community's problems, I could see that the draft report should be workshopped within the LU network and possibly more research done. This is also important to ensure that the information is accessible to the community organizations in helping them plan further strategies for addressing the problems analyzed. With students are on a semester timeline and community groups meeting intermittently, this is impossible to accomplish on the students' schedule.

Additionally, I always worry that for information gathering to serve the community, the work must continue beyond the initial stages. One risk of beginning with the students' work is that it requires other community organizations to pick up the work when the students are finished, so that interviewees are not left feeling that they were the mere subjects of a research project. Much of the value in the interviews beyond serving as an information mapping tool is that they brought a variety of actors into the project, cross-informed them about issues and how others in the system were perceiving them, and hopefully inspired them to become involved in further community actions on the topic. If too much time passes until others in the collaborative are able to take on the next steps in the project, I worry we will have lost important energy and momentum. Because the academic calendar dictates students' work, they are not able to be flexible to the timelines of others groups, and when agreeing to support the students, those groups must agree to adjust to this academic timeline too. This is once again exacerbated by under-funding of local organizations.

The students' contribution to the work of the collaborative thus far has been immense. They have begun the process of gathering a wide network of those involved with the criminal justice system and they have answered important questions about the kinds of problems occurring and their location. The work of integrating this piece of the project into the larger work of the collaborative and the work of integrating the students as contributors into the larger group of actors in the collaborative is no greater challenge than is always presented in this kind of grassroots participatory process.

In sum, I hope that the students not only learned important legal skills but also finished this piece of the project with a sense of the greater project and the way others will build on it. In the meantime, I hope others in the collaborative are prepared to pick up the work and build on it without losing momentum. Finally, I hope that the community members who are suffering because of the injustices of the system have been able to feel like even this information-gathering step enables them to better analyze and consider action against the injustices they face.

student reflections: Tennessee Immigrants and Criminal Justice

C. Overall reflections from individual team members

Kimberly's Reflections



I am pleased with the project as a whole. When we first began, I had quite a few reservations and concerns. The project started off rather slowly. This was largely because of the staffing problem that Latinos Unidos encountered immediately before we began working with them. I was afraid that the project was not going to allow me to use my time effectively and that the final result would be disappointing. As a student, I was constantly aware of the time constraints involved and afraid that if the project took too long to develop, we would run out of time before being able to make any substantial progress on it. But, in the end, I do not think I could have been more wrong. Even though, considering the bigger picture, we were only able to provide a cursory view of the problems faced by immigrants, I think that we were able to get a good start on the project for the future.

I also had reservations about the project because I did not know anything about immigration law when I started. I was afraid that not having background knowledge of immigration issues would make the project more difficult to work on. But I think it actually made it easier for me by allowing every part of the project to be a tremendous learning experience. I was able to approach every interview with an open mind, truly interested in knowing the person's perspective on the issues that we had identified and their suggestions for new issues that we had not yet explored. Until the very end, I was able to gather information that added to the final project in a new or different way.

This project has also provided a personal growth experience for me by addressing some of my own ignorance. I began working on it ambivalent about the subject. On one hand, I realized that there was a growing immigrant population and that the criminal justice system was not adequately addressing their needs. I have worked in the court system, and I had witnessed some of those deficiencies firsthand. But on the other hand, I was unsure how I felt about the fact that this growing population is here illegally. Specifically, I was unsure how I felt about advocating the expenditure of resources to address the needs of a population that is, after all, breaking the law just by being here.

After working on this project, my opinion on immigration violations has completely changed. I no longer consider it important to know whether someone is here legally or not. I believe that the way a person is treated by the government in this country should be the same irrespective of race, gender, religion, wealth, and legal status or any other such classification.

The way I look at it, government owes a certain level of respect to people, regardless of citizenship status. However, the current structure of the criminal justice system does not provide even minimum safeguards for the rights of undocumented immigrants. I think it is imperative that local law enforcement abandon the role of enforcing immigration policies. It is impossible for immigrants to trust law enforcement or anyone else within the criminal justice system as long as they must fear deportation from any contact.

I have observed many times throughout this semester that one of the greatest rewards of this experience has been a feeling of appreciation that we have gotten from our community partner. We have devoted a lot of time to this project, and it is nice to feel like it has been appreciated. I would encourage people to take the opportunity to do fieldwork such as this just to gain this perspective. Working with a group that relies heavily upon volunteer support is a much more rewarding experience than I thought it would be.

Another observation that I made repeatedly throughout the semester deals with the issue of trust. We have been told of many instances in which people take advantage of Latinos. This happens because there are few people willing to work with them, either because of the language barrier, or because of a risk associated with dealing with undocumented immigrants. The result is that the people who do work with the community are free to take advantage of people because they have no competition. They can charge whatever they want for services and basically make up their own rules. This just underscores the need for more resources to be available to the Latino community.

I felt that the classroom portion of the course was very beneficial. I do not know if classes in the past have focused on a common theme among the projects, but I would definitely encourage the practice in the future. The classes that concentrated on the project our classmates were pursuing in an urban high school were largely centered on issues caused by racial inequality. The plight of undocumented immigrants in the United States is similar in many respects to that faced by other minority groups. Devoting class time to both projects brought some of these similarities to light. By doing so, I think the course made the issues faced by immigrants more real to a lot of people who may not have thought about them before.

Because the project was simply a starting point for Latinos Unidos, I have left it with a personal sense of incompleteness. All that we did was identify some of the problems that need serious attention. I cannot help but feel the need to do more and to help in the stage of the process that actually addresses the issues. Many of the people that we interviewed seemed very excited about this project. They were glad that someone was trying to address these issues that many of them face on a regular basis. It seems strange to me for us to just tie it all up in a neat little binder and hand it over to Latinos Unidos without any further involvement. I intend to discuss the possibility of remaining involved in this project as it continues. I am not sure how much time I can devote, but I feel the need to do something more.



student reflections: Tennessee Immigrants and Criminal Justice

A. Difficulties and frustrations (cont'd)

2. Discovering the challenges of grassroots organizing for change

Two of us experienced a problem that is basic to community organizations – we went to a meeting that did not happen. Our group spent the week before the meeting preparing a survey to hand out to Latinos Unidos members at a meeting in a small town north of here one Saturday. We drove almost three hours round trip to attend the meeting, anxious to finally get to interview some immigrants that may have great stories to share with us. Unfortunately, when we got there, the only people present were those who organized the meeting. Although this was very disappointing, it was another example of things that one is likely to encounter when working with a grassroots, membership-based organization. ([Teacher comment on working with grassroots groups](#)) It is not always possible for organizers to assure attendance or to anticipate the behavior of the members. Interestingly, the meeting that happened the next day in a different city was a great success, with strong attendance.

3. Lack of structure, changing expectations

Another aspect of our project that was sometimes a source of frustration for us was the lack of consistent structure, changes in expectations and assignments, and the general moving target” sensation that we had more than once over the course of the semester. Our experiences in the field taught us that some of this may just come with the territory when one is working with a small non-profit community partner on issues like those involved in this project. At the same time, we also know that these difficulties will be intensely felt by most law students, given their limited time and the constraints on their flexibility. So we have urged Professor Ansley, and we urge any others reading this page, to pay special attention to this problem and to try to minimize its impact if possible. Below are some of our reflections on this and related issues.

In the future, I would first suggest that students have a clearer idea of what is required up-front. This would help on several levels. First, students would be able to begin researching their project and conducting interviews, etc., much earlier in the semester. This would allow more information to be gathered more efficiently. Similarly, students would also benefit from knowing exactly what their final project will be as soon as possible. This is important information that allows students to gather and compile their information in a format most useful for the final project. I feel that I wasted a lot of time typing notes and compiling information that turned out to be different from what was needed in the final project. Had I known the format in advance, I could have done my work much more efficiently and wasted much less time.

* * *

The project often felt basically disorganized. As a law student with one semester to devote to a project, I expected to jump right into the thick of it and plough ahead until the end. We quickly learned that projects involving a community partner do not always work quite that way. When we began, Latinos Unidos had just learned that its sole full-time staff person was resigning, so they were in the midst of making interim plans while they searched for a new organizer. It was determined that the project with law students would go forward, but it still took a few weeks to really get the kind of direction that we needed. Although frustrated by this, we came to realize that this is simply one of the things to expect when working with a grassroots organization. It is just a fact that such a group is not always going to operate smoothly, and people who work with them must be to able to deal with such issues.

Another problem that we encountered was a lack of direction at some points of the project. A perfect example of this occurred when Latinos Unidos asked us to prepare an interim report that they hoped to use in their fund-raising efforts. Although they had mentioned this a month earlier, they did not let us know exactly what they needed until two days before they needed it. After we had spent several hours on the report, compiling our initial findings, they gave us a different idea of the format they preferred, and that format was different from the material we had already prepared. In order to give them what they needed, several more hours were required to complete the report. Again, we could see that groups like this are not always able to anticipate their needs and that flexibility is important.

([Teacher comment on structure, expectations](#))

student reflections continued | < [previous](#) | 2 of 6 | [next](#) >

RACIAL JUSTICE

COLLABORATIVE

c/o Public Interest Projects
80 Broad Street, 17th Floor
New York, NY 10004
Tel. 1.212.764.1508 x243
Fax 1.212.764.4298
www.rjcollab.org

Funders' Collaborative Fund for Racial Justice Innovation

National Fund

Call for Letters of Intent

Letters of Intent
Must be postmarked on or before
June 2, 2003

c/o Public Interest Projects
80 Broad Street, 17th Floor
New York, NY 10004
212-764-1508 ext.243

Background

The civil rights movement successfully challenged many of the blatant contradictions between democratic ideals and exclusionary practices in U.S. society. In the process, it dismantled more than three centuries of legalized segregation. The efforts of both lawyers and community organizations played a crucial role in improving racial and social justice.

But even with the most egregious legal barriers formally removed, discrimination on the basis of race, color, ethnicity, national origin and language remains prevalent. Additionally, the law still denies non-U.S. citizens many of the basic personal rights belonging to all American citizens. Further, recent government policies enacted in response to domestic security concerns have eroded civil rights protections for citizens and non-citizens alike, particularly those who are Muslim, or of Middle Eastern or South Asian ancestry. Discrimination against certain immigrants by private, non-government actors is also on the rise, particularly in employment and housing.

Moreover, in addition to widespread, overt discrimination, deeper and structurally based forms of exclusion persist. Structural exclusion¹ often is manifest in policy decisions that provide, or deny, access to resources and opportunities. It is harder to see and prove than overt discrimination because it is also imbedded in the functions of markets and in the processes of public and private institutions. Structural exclusion permeates the values and beliefs of society, affecting the definition of fairness. It continuously generates poverty and social disparities, and it fuels racial and ethnic tensions. It undermines promising efforts to build communities, strengthen families, improve education, foster positive inter-group relations and achieve other important social goals.

Louder Than Words and the Racial Justice Collaborative

In March 2001, the Rockefeller Foundation published the findings of a three-year assessment of the state of civil rights litigation. The report, *Louder Than Words: Lawyers, Communities and the Struggle for Justice*, examined six civil rights struggles in which lawyers and communities, U.S. citizen and immigrant, worked together to address issues of diversity. It revealed that despite advances in legal protections, for racial/ethnic minorities and immigrants, structural barriers to opportunities, resources and policymaking remain embedded in political and economic systems.

¹ Structural exclusion refers to subtle and overt forms of racial disadvantage and prejudice perpetuated through market, political and social mechanisms, and influenced by gross disparities in wealth, income or values that can be traced to historic racial disadvantage, or, conversely, to historic racial advantage.

For example:

- *Racially disparate enforcement efforts by the Environmental Protection Agency.* A recent study showed that penalties against corporate polluters at Superfund sites with largely white populations were about 500 percent higher than penalties at sites with largely minority populations. The disparity was not class-based: on average, sites in white population areas with the lowest median incomes received higher penalties than sites in more affluent minority population areas.²
- *Failure of state and federal authorities to enforce and strengthen legal protections for low-wage and immigrant workers.* Existing legal protections for low-wage workers are insufficient to prevent dangerous labor abuses in a highly competitive global market. Despite the proliferation of exploitative sweatshops that ignore minimum wage and overtime restrictions, state and federal authorities consistently refuse to provide adequate resources for enforcement agencies, and lawmakers consistently fail to enact more stringent protections.³

Louder Than Words highlighted the need for more funding of racial justice work for organizations operating at the national, regional and local levels, noting that "creative approaches to racial justice can help create broader constituencies for equitable policies ... in areas such as education, health and community revitalization." "When used strategically... racial justice lawyering can be a powerful tool to expand community engagement, mobilize public will and promote social policy."

The report's California garment worker case demonstrated how civil rights lawyers and a diverse group of activists that included both the Thai and Latino communities joined together in a groundbreaking lawsuit against California sweatshop operators after a 1995 INS raid on an El Monte, California sweatshop. The raid uncovered 71 Thai workers who had been imprisoned for seven years and led to a precedent setting case in which the court held that corporate defendants could be liable for wage and other violations. In another campaign in Los Angeles, working class and low-income residents organized and mounted a multi-strategy campaign against the Metropolitan Transportation Authority when it announced that service was being cut and fares raised. The campaign resulted in a settlement with the city that provided up to \$1 billion in improvements in Los Angeles bus service.

In response to the *Louder Than Words* findings, the Funders' Collaborative for Racial Justice Innovation ("the Racial Justice Collaborative") was established. The Racial Justice Collaborative is a partnership of private and corporate foundations, family foundations and individual donors. It was created to support the broad range of activities necessary to promote and sustain collaborations between lawyers and community activists in communities around the country. Fund partners share a commitment to working together to support and learn from communities involved in racial justice lawyering. The Fund has two main purposes: to support partnerships

² Alan Jenkins, "See No Evil," *The Nation*, June 28, 1999

³ Dayna Cunningham, telephone interview with Stewart Kwoh, Executive Director, Asian Pacific American Legal Center (April 7, 2000)

between legal groups and community-based organizations and to advance learning in the field for the benefit of racial justice advocates and funders.

The Racial Justice Collaborative is made up of three primary components: 1) a national grantmaking fund; 2) state and regional grantmaking funds; and 3) a documentation and learning initiative. The National Fund will provide grants to innovative nonprofit organizations and institutions throughout the United States. State and regional funds will provide support to organizations that fall within their geographical restricted funding areas. State Funds have been established in California and North Carolina. A comprehensive documentation and learning initiative will offer training and technical assistance to grantees, as well as host convenings and disseminate lessons learned from grantee work.

Funding Priorities

The National Fund (the Fund) of the Racial Justice Collaborative will support partnerships between lawyers and local community-based organizations that are using legal tools to advance fair resource distribution and equity, improve policy outcomes, and increase government and corporate accountability for communities marginalized by race, color, ethnicity, immigration status or citizenship status. "Legal tools" are broadly defined. They include innovative lawyering approaches that focus on solving underlying community problems, with or without resort to the legal process. Priority will be given to collaborations involving locally-rooted institutions—as demonstrated by leadership and participation from community members, knowledge of/responsiveness to local conditions, and a track record of sustained involvement with community issues—that have the greatest chance of being sustained overtime. The Fund will seek out groups whose practices reflect the following values and priorities:

- Advancing understanding of structural exclusion on the basis of race, color, ethnicity, immigration status or citizenship status;
- Helping to frame new approaches that practically address structural exclusion and its changing nature in US society today;
- Connecting race and democracy: that is, promoting fair political representation of, and supporting greater participation in government and policy formation by racial and language minorities;
- Impacting public debate about race and ethnicity, and immigration;
- Exploring common interests across racial and or ethnic divides, including divides created or exacerbated by differences in immigration and citizenship status;
- Supporting and strengthening community leadership; and
- Using participation and deliberation by marginalized groups to identify and implement community goals and build public will.

The Fund will support efforts to understand new challenges and emerging issues of legal and structural exclusion based on race, ethnicity, immigration or citizenship status. These issues might include, but are not limited to:

- Access to quality education;
- Criminal justice, particularly the collateral consequences of incarceration on families and communities;
- Access to health care;
- Denial of welfare and immigration benefits and/or access based on language, national origin, ethnicity or citizenship status;
- Economic justice;
- Development and enforcement of immigration, asylum, detention and border laws and policies that violate human and civil rights of non-citizens.
- Labor issues, particularly for low-wage and immigrant groups;
- Employment-related discrimination; and
- Voting rights, democratic incorporation and participation of racial and ethnic minorities and non-citizens.

Organizational Eligibility

An organization interested in applying for funding under the National Fund of the Racial Justice Collaborative must be a 501(c)(3) tax-exempt organization, or have a tax-exempt fiscal agent. Applicants must submit a current IRS determination letter.

Use of Grants

Grants ranging from \$50,000 – \$100,000 per year for up to three years will be awarded to between 8 and 12 organizations.

The National Fund's intent is to provide multi-year, flexible funding that will enable organizations to strengthen partnerships around racial justice community work. Support is intended to build organizational experience with creative legal approaches and permit the creation of collaborative networks, and sophisticated problem-solving and communication strategies. To this end, the Fund will support training, knowledge development, infrastructure development and relationship building — especially relationship building between community activists and lawyers.

The National Fund will support activities that are integral to an innovative approach to racial justice but for which funding is often difficult to secure, for example: planning and holding of community meetings; preparation of community members to engage in discussion with local agencies; provision of translation and interpretation services; public education campaigns and other communication approaches; production and distribution of informational materials, purchase of advertisements in local and ethnic media; production, translation and distribution of informational videos, CDs or other media; participatory research on community claims/legal issues; preparation and dissemination of policy data; staff time of lawyers and community activists needed to interface with each other and support each others' work; technological assistance and technology that supports constituency building; office space for prolonged local

campaigns; staff time for negotiation with government agencies; transactional work related to all of the above.

Application Process

Applicants should submit:

- Completed **Notice of Intent to Apply for Funds**
- Breakdown of staff and board by race/ethnicity and gender (please fill out the attached chart)
- Copy of 501(c)(3)
- Breakdown of staff and board by race/ethnicity and gender
- Organization budget (of the applying organization) and project budget. The project budget should include a list of current and prospective funders.

Please do not send full proposals or other unsolicited materials unless requested to do so. The Notice of Intent Letters should be postmarked by **June 2, 2003** and sent to:

Elizabeth Lee
Program Assistant
Racial Justice Collaborative - National Fund
Public Interest Projects
80 Broad Street, 17th Floor
New York, NY 10004

Public Interest Projects will not accept any Letters of Intent by fax or e-mail.

Full proposals will be solicited from those organizations whose program plans most closely fit the priorities of the Racial Justice Collaborative's National Fund. ***We will not consider unsolicited proposals.***

The timetable for proposal solicitation and review is as follows:

June 2, 2003	Letters of Intent Postmarked
August 4, 2003	Notification of Request for Full Proposals
October 6, 2003	Full Proposals Postmarked
December 8, 2003	Notification of Grant Awards

Glossary Spanish Legal Terms¹
Latinos Unidos Pilot Study Project²

Appeal(v.)	Apelar
Appeal (n.)	Apelación
Aggravated felony	Delito con factores agravantes
Bond	Fianza
Criminal justice system	Sistema penal
Charge	Cargo/acusación
Defense attorney	Abogado defensor
Evidence	Prueba
Felony	Delito
Fine	Multa
Handcuffs	Esposas
Judicial ruling/decision	Fallo
Immigration status	Estado migratorio
Insurance	Aseguranza
Fingerprints	Huellas o huellas digitales
Hearing	Audiencia
Misdemeanor	Falta o Delito menor
To plead guilty	Declararse culpable
To plead not guilty	Declararse inocente
Parole	Libertad condicional
Prisoner	Preso, Prisionero
Prosecutor	Fiscal/Abogado Acusador
Pull over	Parar
Record (criminal)	Antecedentes
Sentence	Pena
Trial	Juicio
Waive	Renunciar

Sources:

English/Spanish Glossary, Civil Rights Division, Department of Justice, January 29, 2004.
www.usdoj.gov/crt/genglossary_esp.html

Diccionario de Terminos Legales, Louis A. Robb, Downtown Book Center, July 2001.

¹ Prepared by Spring Miller, Research Assistant to Professor Fran Ansley, March 2004

² Paying close attention to language is critically important in carrying out our research, but we must understand that developing a fixed set of Spanish definitions to convey U.S. legal vocabulary is impossible. As immigrants encounter the local criminal justice system, they forge their own set of terms to make sense of their experiences. This list is a work in progress. It is intended to serve a practical guide to some commonly-used Spanish terms, and to focus the attention of those of us participating in this project on the centrality and complexity of translation in our participatory research work.

Latino Immigrants in Tennessee: A Survey of Demographic and Social Science Research

By Spring Miller, Research Assistant to Professor Fran Ansley
University of Tennessee College of Law
June 2004

Introduction

This report consists of two sections. The first is a narrative introduction to the global immigration phenomenon that has transformed communities in the U.S. Midwest and South, including Tennessee, in recent years. This section includes a brief survey of recent research on Tennessee's immigrant population.

The second section is a more quantitative compilation aimed at presenting as clear a demographic picture as possible of the phenomenon of Latino immigration at national, state, and local levels. This section opens with a review of standard demographic measurement techniques and their inherent limitations, and concludes with a glossary of terms, a list of online resources, and notes on other sources of immigration-related statistics.

Part One: Recent Immigration Flows, “New Growth Areas,” and Tennessee

Immigration has always represented a powerful force shaping U.S. economic, social, political and cultural life. In the last several decades, however, global, national, and regional economic restructuring has led to the emergence of new patterns and comparatively high levels of international labor migration across U.S. borders. The U.S. foreign-born population grew to 32.5 million in 2002, according to Census estimates.¹ Today's immigrants still do not constitute as large a percentage of our national population as did immigrants who came in the early 20th century -- Census figures from 2002 indicate that 11.5% of the US population is foreign-born, compared to 14.7% in 1910. Nonetheless, current immigration levels represent a significant demographic shift from the 1970s and 1980s, when immigrants represented a much smaller percentage of total US residents (6.2% in 1980).²

Significantly, too, the experiences of contemporary immigrants are quite different from those of people who arrived in the 1910s and 1920s. Today's immigrants are largely from Latin America (just over half of today's foreign-born population is Latino), and many of them are settling in regions of the country historically untouched by major international migration flows. Communities in the southeastern U.S. in particular have received tremendous national attention in recent years for the transformations they have undergone as a result of exploding populations of immigrant, largely Latino, workers and their families. The foreign-born population in the U.S. south increased by 88% between 1990 and 2000.³

North Carolina and Georgia are typically cited as the most dramatic examples of this “new growth area” phenomenon, and private institutions, practitioners, and policymakers in those states have responded to these new populations in a variety of ways. The state of North Carolina established a Center for New North Carolinians on the campus of UNC-

¹ The Foreign-Born Population in the United States: 2002. By Dianne Schmidley. Published by the U.S. Census Bureau. February 2003.

² *Profile of the Foreign-Born Population in the U.S.: 2000*. Published by the U.S. Census Bureau. December 2001.

³ *The Foreign-Born Population: 2000*. By Nolan Malone, Kaari Baluja, Joseph Costanzo, and Cynthia Davis. A Census 2000 Brief. December 2003.

Greensboro to “enhance [public and private agency] responsiveness to immigrant and refugee needs;” the UNC Institute of Medicine convened a special task force to identify barriers to immigrant access to health care; and the Charlotte, NC, Mayor’s Office established an advisory board (“International Cabinet”) to coordinate services to immigrant community members. The Georgia Project, established in 1996, aims to identify best practices in teaching Spanish-speaking immigrant children and to support those children, their teachers, and their parents throughout Georgia.

Tennessee is also a state that has received national attention for dramatic recent growth in its foreign-born and Latino populations. ***According to 2000 U.S. Census figures, Tennessee has the sixth-fastest-growing foreign-born population, and the fourth-fastest-growing Latino population. Remarkably, Tennessee’s Mexican-born population is growing faster than that of any other state in the country.***

State-level studies and community needs assessments have been slower to emerge in Tennessee than in surrounding states like North Carolina or Georgia, but in the last several years, private institutions, local governments, and practitioners in the fields of health care, social work, and legal services have begun to take stock of the state’s changing demographics.

For instance, in February 2002, in response to national attention focused on the city’s growing immigrant and refugee communities, the Metropolitan Government of Nashville-Davidson County commissioned an Immigrant Community Assessment “to better understand the needs of Nashville’s immigrant community” and “to assess the availability of a wide range of public and private, social welfare and economic services to immigrants in the area.” That study, carried out by researchers from Meharry Medical College, Tennessee State University, and Vanderbilt University, and published in August 2003, described Nashville’s immigrant communities as rapidly-growing and relatively invisible. Among its recommendations to private and public social service agencies was a call to “increase the supply of bilingual advocates – counselors, lawyers, and social workers – who can advocate on behalf of non-English-speaking clients and patients . . . in [the areas of] adult education, children’s education, employment, health, housing, and safety.”

Other studies that have either specifically addressed the state’s growing immigrant communities or highlighted Tennessee’s immigrant population as a key demographic trend requiring policy and practitioner responses include

1. *Latino Immigrants in Memphis: Their Local Economic Impact*, published in January 2001 by the University of Memphis Center for Research on Women (CROW).

This study cites a 2001 University of Memphis Regional Economic Development Center (REDC) estimate of the Memphis-area Latino community at 53,628. It was one of the first systematic accounts of the impact of growing immigrant populations on local Tennessee communities. The study noted that enrollment of Spanish-speaking children in Memphis public schools increased five-fold between 1992 and 1999, and that many local businesses and service providers were scrambling to attract bilingual, bicultural employees to engage emerging Latino communities and markets.

2. *A Profile of the Foreign-born in the Nashville Economic Market*, published in October 2003 by the Urban Institute for the Nashville New American Coalition.

This study indicated that the major growth in Nashville's immigrant population took place during the second half of the 1990s, and that most of the city's foreign-born population increase is due to its booming Latin American immigrant population. Latinos constitute the largest group of Nashville's foreign-born population (40% of the total), with Mexicans making up by far the largest nationality group at 27%. However, a range of other ethnic and national immigrant groups are represented in the city, including Asians and Middle Easterners (32%), Europeans (16%), and Africans (8%).

According to this Urban Institute study, contrasts in data on the city's foreign-born population between 2000 Census figures and official Immigration and Naturalization Service (INS) legal entry numbers suggest that a large percentage of the city's immigrant population is undocumented. The study also finds that the poverty rate among foreign-born households in the Nashville area is significantly higher than that of native-born households (18 versus 10%).

3. *Nine Counties, One Vision: 1990 and 2000 Demographic Snapshots*. A Presentation of the Social Services Task Force. Prepared by the University of Tennessee College of Social Work Office of Research and Public Service, Knoxville, TN, June 2003.

This project aimed to identify significant demographic and social trends in the "Nine Counties" East Tennessee region. The report characterizes recent growth in immigrant and Latino communities as one of the key demographic shifts currently underway in the region. Between 1990 and 2000, the number of Latinos in the nine counties region tripled, although according to Census 2000 figures, Latinos still account for just 1.2% of the area's total population.

4. *Report from the Statewide Comprehensive Legal Needs Survey for 2003*, prepared for The Tennessee Alliance for Legal Services by the University of Tennessee College of Social Work Office of Research and Public Service, January 2004.

This study used a telephone survey tool to identify primary civil legal needs of Tennessee's low-income and very low-income populations. The sample size of 824 surveys included only 21 that were conducted in Spanish, and in an introductory section on "limitations of the study," its authors acknowledged that several of the Hispanic/Latino households surveyed were reluctant or simply refused to answer all survey questions. In spite of these constraints, however, the survey did manage to uncover some important patterns regarding Latino needs for civil legal assistance. For example, 93.3% of Latino survey respondents reported that they had experienced some type of civil/ legal problems over the past year, in comparison to 77.3% of African-American respondents and 65.5% of white respondents.

5. *Seeking a Way Out: Services and Challenges Affecting Tennessee's Poor*, prepared for the Comptroller of the Treasury, Office of Research, State of Tennessee, April 2004.

This report classifies immigrants as being one of the four Tennessee populations most likely to suffer the effects of poverty in the state (along with children, senior citizens, and persons with mental illness). It recommends the creation of a state Office of Immigrant Affairs to help public agencies address issues associated with the state's burgeoning foreign-born population. It also recommends hiring bilingual Department of Human Services (DHS) employees and establishing collaborative relationships between state agencies and non-profit immigrant service providers.

The study notes that in several instances, local and state agencies are already attempting to respond to needs of Tennessee's immigrant communities. 36% of Knox County Health Department patients and 30% of Metropolitan Nashville Health Department's Bridges to Care clients are Latinos. Last year the Department of Human Services (DHS) contracted with the Nashville Latino community agency, Conexión Americas, to provide Latino Cultural Competency training to front-line employees.

Taken as a whole, these studies -- as well as the direct experiences of health, educational, social service, and legal practitioners working across the state -- indicate a serious need for public and private agencies and policymakers to respond to Tennessee's booming immigrant communities.

Part Two: Latino Immigrants: National, Statewide, and Local Demographic Statistics

As noted in the previous section, the rapid growth of immigrant populations of Latino origin, particularly in "new-growth" states, has generated significant public attention in recent years. However, generating precise statistics to document this trend is a complex endeavor. It is widely accepted that traditional sources of demographic information chronically undercount minority populations, especially immigrant ones. Undocumented immigrants by definition are not registered in official immigration tallies, such as the Immigration and Naturalization Service INS Statistical Yearbook. Their immigration status often forces them to live "hidden" or underground lives, at least in relation to governmental entities. Researchers have also documented literacy and language barriers, fear of government and outsiders, mobility, and non-traditional household structures as contributing factors to persistent U.S. Census and other survey undercounts of immigrant populations.⁴

Estimates of the U.S. Immigrant Population

Several non-governmental research and public policy institutions have invested considerable resources in recent years to monitor trends in immigrant community population growth and characteristics. Using demographic analyses based upon Census and Current Population Survey data, these institutions have produced immigrant population estimates that constitute the most reliable aggregate figures available on these

⁴ Edmonston, Barry. "The Undercount in the 2000 Census." A KIDS COUNT/Population Reference Bureau Publication. May 2002.

communities. The most well-known of these research groups are the Urban Institute, the Pew Hispanic Center, and the Migration Policy Institute, all based in Washington, DC.

In order to generate estimates of undocumented immigrant populations, researchers essentially subtract U.S. government numbers of legally present populations (lawfully present immigrants or temporary residents and US citizens) from total population figures indicated by the US Census. In making these comparisons, researchers use US Census figures that are adjusted for undercounts. Variations in researchers' estimates of undocumented immigrant populations are usually a result of differing assumptions about the levels of US Census undercounts.⁵ Estimates of the U.S. undocumented population in 2000 ranged from 7 million (INS⁶) to 8.5 million (Passel, Urban Institute⁷) to 8.7 million (U.S. Census⁸). A Pew Hispanic Center report presented an estimated range of the undocumented immigrant population in the U.S. in 2001 between 5.9 and 9.9 million, with a midrange total of 7.8 million.⁹ Other variations in widely disseminated figures on undocumented immigrants can be attributed to the "age" of the numbers; 2003 and 2004 estimates on undocumented immigrants, for example, are always higher than those based on 2000 data.

This section is a compilation of data published since 2000 on immigrants in the U.S., Tennessee, and East Tennessee, with a focus on Latino and undocumented populations.¹⁰ Some of the most recently released estimates do not correspond precisely with detailed immigrant population breakdowns based on analyses of 2000 U.S. Census data. For example, January 2004 Urban Institute estimates of the current aggregate undocumented immigrant population in the U.S. do not correspond with 2000 INS estimates of size of undocumented population by nationality. Given rapid growth in immigrant populations and the work required to analyze various demographic sources, such lags and minor inconsistencies in respected figures are not surprising, and I have cited both pieces of research in this paper. In preparing this summary, I looked for the most recent data available documenting a range of characteristics of immigrant populations, and then thoroughly referenced sources in order to give readers the tools they need to make responsible, informed use of this dense set of information.

⁵ Lowell, Lindsay, and Suro, Robert. "How Many Undocumented: the Number behind the U.S.-Mexico Migration Talks." Pew Hispanic Center Report: Washington, DC. March 21, 2002.

⁶ "Estimates of the Unauthorized Immigrant Population Residing in the U.S.: 1990-2000." Immigration and Naturalization Service: Washington, DC. January 31, 2003.

⁷ Passel, Jeffrey. "Estimates of Undocumented Immigrants Living in the United States: 2000" The Urban Institute. August 2001.

⁸ As reported in Lowell, Lindsay, and Suro, Robert. "How Many Undocumented: the numbers behind the U.S.-Mexico Migration Talks." Pew Hispanic Center Report: Washington, DC. March 21, 2002.

⁹ Lowell, Lindsay, and Suro, Robert. "How Many Undocumented: the numbers behind the U.S.-Mexico Migration Talks." Pew Hispanic Center Report: Washington, DC. March 21, 2002.

¹⁰ For definitions of terms used in this paper, please see "Terminology" section on pages 9 and 10.

National Statistics:

Foreign-born Population by Region of Origin:

- There are approximately 31 million foreign-born people currently living in the U.S., according to 2000 Census figures.
- 52% of the nation's foreign-born population is from Latin America, 26% is from Asia, 18% is from Europe or Canada, and 3% is from Africa or another part of the world.¹¹
- 30% of the U.S. foreign-born population is from Mexico.¹²

Foreign-born Population by Immigration Status:

- Approximately 30-32% of the nation's foreign-born residents are naturalized citizens, based on Census 2000 figures.¹³
- Another estimated 30-32% of the nation's foreign-born residents are "legal aliens" or legal permanent residents.¹⁴
- Approximately 7.5% of the U.S. foreign-born population arrived as refugees. Another 4-5% of the foreign-born population are temporary residents.¹⁵
- The nation's undocumented population was estimated in early 2004 to be approximately 9.3 million, or 26% of the total foreign-born population.¹⁶
- In total, immigrants from Latin America make up approximately 80% of the undocumented immigrant population in the U.S. With an estimated population between 4.8-5.3 million, Mexicans account for the largest group of undocumented persons in the U.S.¹⁷ The nationalities of the next four largest groups of undocumented immigrants in the U.S., according to 2000 INS estimates, are Salvadoran (189,900), Guatemalan (144,000), Colombian (141,000), and Honduran (138,000).¹⁸
- According to 2000 INS estimates, 10% of the U.S. undocumented population is from Asia, 5% is from Europe and Canada, and another 5% is from other parts of the world.¹⁹

Immigrants and the U.S. Labor Force:

- Immigrants represent about 11% of all U.S. residents, but they constitute 14% of the U.S. labor force and 20% of the low-wage labor force.²⁰

¹¹ Capps, Randy, Jeffrey S. Passel, Daniel Perez-Lopez, Michael Fix. "[The New Neighbors: A Users' Guide to Data on Immigrants in U.S. Communities.](#)" Washington, DC: The Urban Institute. August 2003.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Capps, Randy, Jeffrey S. Passel, Michael Fix. "Undocumented Immigrants: Facts and Figures." Washington, DC: Urban Institute Immigration Studies Program. January 12, 2004.

¹⁷ A January 2004 Urban Institute paper presented an estimate of 5.3 million undocumented Mexicans, while 2000 INS figures estimated that population to be at 4.8 million.

¹⁸ "Unauthorized Immigration to the United States." Washington, DC: Migration Policy Institute *Migration Facts*, n.2. These numbers are based on 2000 INS estimates, and are more helpful in the relational or comparative sense than as estimates of aggregate totals. October 2003.

¹⁹ Ibid.

- 96% of all undocumented men, and 62% of undocumented women, are in the labor force.²¹
- There are an estimated 6 million undocumented workers in the country; these workers account for about 5% of the total US labor force.²²
- 37% of foreign-born workers in the U.S. labor force are from Mexico or Central America, while 26% are from Asia, 12% from Europe, 9% from the Caribbean, and 7% from South America.²³

Tennessee Statistics

- 2000 US Census figures estimate the total Hispanic-origin population in TN at 123,838 or 2.2% of the total population. This is a 378% increase from 1990, when the Hispanic-origin population in the state was estimated at 32,741.
- 2000 US Census figures estimate the state's foreign-born population at 159,004 or 2.8%. Tennessee's foreign-born population grew by 169% between 1990-2000, the sixth-fastest growth in the nation.
- According to a 2004 Inter-American Development Bank report, there are 75,993 Latino immigrants in Tennessee.²⁴
- Tennessee experienced the largest percentage growth of Mexican-born population of any state in the country between 1990 and 2000, at 2,166 percent.²⁵
- 2002 US Census "Change Profiles" estimate the state's Hispanic-origin population at 132,687, or 2.4% of the total population.
- An October 2003 Urban Institute study of immigrants in the greater Nashville area indicated that a significant proportion of the region's immigrants from Latin America are undocumented, a finding that is consistent with other studies on heartland states experiencing significant growth in foreign-born populations.²⁶
- Tennessee experienced a 411% growth in its undocumented immigrant population between 1990 and 2000, from 9,000 to 46,000 people.²⁷
- 30-39% of Tennessee's immigrant population is undocumented, higher than the national average of 26%, according to January 2004 Urban Institute estimates.²⁸

²⁰ Capps, Randy, Michael Fix, Jeffrey S. Passel, Jason Ost, and Dan Perez-Lopez. "A Profile of the Low-Wage Immigrant Workforce." Washington, DC: The Urban Institute. *Immigrant Families and Workers: Facts and Perspectives*. Brief No. 4. November 2003.

²¹ Capps, Randy, Jeffrey S. Passel, Michael Fix. "Undocumented Immigrants: Facts and Figures." Washington, DC: Urban Institute Immigration Studies Program. January 12, 2004.

²² Ibid.

²³ "What Kind of Work do Immigrants Do?: Occupation and Industry of Foreign-Born Workers in the U.S." January 21, 2004. Washington, DC: Migration Policy Institute: *Immigration Facts*, No. 3

²⁴ *Sending Money Home: The First State by State Analysis of U.S. Remittances to Latin America*, 2004. Study conducted by Benixen & Associates for the Multilateral Investment Fund (MIF) of the Inter-American Development Bank. Released May 17, 2004.

²⁵ Elizabeth Greico. "The Foreign Born from Mexico in the United States." Washington, DC: The Migration Policy Institute *Migration Information Source*. October 1, 2003.

²⁶ Lotspeich, Katherine, Michael Fix, Jason Ost, Dan Perez-Lopez. "A Profile of the Foreign-Born in the Nashville Economic Market." Washington, DC: Urban Institute. October 2003.

²⁷ "Unauthorized Immigration to the United States." Washington, DC: Migration Policy Institute *Migration Facts*, n.2. October 2003.

²⁸ Capps, Randy, Jeffrey S. Passel, Michael Fix. "Undocumented Immigrants: Facts and Figures." Washington, DC: Urban Institute Immigration Studies Program. January 12, 2004.

East Tennessee Statistics

- Census 2000 figures indicate that there are 9,801 people of Hispanic origin in the nine counties region of East Tennessee (Anderson, Blount, Grainger, Jefferson, Knox, Loudon, Roane, Sevier, Union). The Hispanic-origin population accounts for 1.2% of the total nine-counties population. This is a 277% increase from 1990, when the Hispanic-origin population in this region was estimated at 3,527.²⁹
- The counties with the greatest aggregate number of persons of Hispanic origin in the nine-county region include Knox (4,803), Blount (1120), Loudon (894), Sevier (884), and Anderson (787). People of Hispanic origin account for 2.3% of the population of Loudon County, 1.3% of Knox County, 1.3% of Jefferson county, and 1.2% of Sevier County.³⁰

Tennessee's Latino Immigrants and Remittances

- Latino immigrants in Tennessee send an estimated \$162 million annually in remittances to their countries of origin.³¹ This figure is approximately equal to the FY2004 non-military foreign aid the U.S. has appropriated for Mexico, Guatemala, El Salvador, and Honduras *combined* (that total, according to estimates by the Center for International Policy, is \$164.74 million).³²

Immigration Terminology:

Foreign-born: This term refers to all U.S. residents who were not born here. It makes no reference to a person's immigration status; naturalized citizens are also "foreign-born."

Hispanic-origin: This is the U.S. Census Bureau's term for all people who consider themselves to be of "Spanish, Hispanic, or Latino descent." The term refers to immigrants from Latin America and Spain as well as native-born residents whose parents or ancestors are of Hispanic origin.

Legal Permanent Residents: This term refers to foreign-born people who have been granted permission to live permanently in the U.S. People who attain this immigration status are issued identification documents commonly referred to as "green cards."

Temporary residents: This term refers to foreign-born people who have governmental permission, typically in the form of tourist, student, or work visas, to be in the U.S. for a limited time.

²⁹ *Nine Counties, One Vision: 1990 and 2000 Demographic Snapshots*. A Presentation of the Social Services Task Force. Prepared by the University of Tennessee College of Social Work Office of Research and Public Service, Knoxville, TN. June 2003.

³⁰ *Nine Counties, One Vision: 1990 and 2000 Demographic Profiles, Compared*. June 2003. A Presentation of the Social Services Task Force. Prepared by the University of Tennessee College of Social Work Office of Research and Public Service, Knoxville, TN. June 2003.

³¹ *Sending Money Home: The First State by State Analysis of U.S. Remittances to Latin America*, 2004. Study conducted by Benixen & Associates for the Multilateral Investment Fund (MIF) of the Inter-American Development Bank. Released May 17, 2004.

³² *Just the Facts: A Civilian's Guide to U.S. Defense and Security Assistance to Latin America and the Caribbean*, compiled by the Center for International Policy, the Latin American Working Group Education Fund, and the Washington Office on Latin America.

Undocumented immigrants: This term refers to foreign-born people who do not currently have permission to be in the U.S., either because they entered the U.S. clandestinely, stayed longer than their temporary visas permitted, or somehow violated the terms under which they were admitted. Some sources also use the term “unauthorized immigrants” or “unauthorized residents” interchangeably.

Workers: This term refers to all people participating in the U.S. labor force.

Online Access to Sources:

All Urban Institute documents are available online at www.urbaninstitute.org.

All Migration Policy Institute documents are available online at www.migrationpolicy.org.

The Nine Counties, One Vision documents are available online at www.ninecountiesonevision.org.

Tennessee-specific Census 2000 information is available online at <http://www.census.gov/census2000/states/tn.html>.

Tennessee-specific U.S. Census Bureau Data Profiles 2002 are available online at <http://www.census.gov/acs/www/Products/Profiles/Single/2002/ACS/index.htm>.

Note on Other Immigration References

Two other sources of immigration figures sometimes referenced by the media, politicians, and anti-immigrant groups are the Center for Immigration Studies and the Federation for American Immigration Reform (FAIR). Both of these organizations are first and foremost advocates for restrictive immigration policies, and they both explicitly present their research findings within the framework of that advocacy agenda.

The Center for Immigration Studies publishes regular analyses and “impact papers” based on Census figures that emphasize data on immigrant poverty levels, employment rates, educational levels, English-language abilities, and public benefit usage. (www.cis.org)

FAIR publishes a state-by-state compilation of data called “Immigration in your Backyard” which lists INS and Census data on foreign-born populations alongside a separate list of figures under the heading “Impact on Environment and Quality of Life.” This second set of statistics documents problems such as sprawl, disappearing open space, air and water pollution, overcrowded schools, and poverty. Though there is no piece of data listed on FAIR’s Tennessee page that references or documents any kind of relationship between immigration and the state’s social and environmental problems, the joint presentation of this information is clearly intended to lead readers to infer a causal relationship between growing immigrant communities and these concerns. (www.fairus.org)

Glossary of Spanish Legal Terms

Appeal(v.)	Apelar
Appeal (n.)	Apelación
Aggravated felony	Delito con factores agravantes
Bond	Fianza
Criminal justice system	Sistema penal
Charge	Cargo/acusación
Defense attorney	Abogado defensor
Evidence	Prueba
Felony	Delito
Fine	Multa
Handcuffs	Esposas
Judicial ruling/decision	Fallo
Immigration status	Estado migratorio
Insurance	Aseguranza
Fingerprints	Huellas o huellas digitales
Hearing	Audiencia
Misdemeanor	Falta o Delito menor
To plead guilty	Declararse culpable
To plead not guilty	Declararse inocente
Parole	Libertad condicional
Prisoner	Preso, Prisionero
Prosecutor	Fiscal
Pull over	Parar
Record (criminal)	Antecedentes
Sentence	Pena
Trial	Juicio
Waive	Renunciar

Sources:

English/Spanish Glossary, Civil Rights Division, Department of Justice, January 29, 2004.

www.usdoj.gov/crt/genglossary_esp.html

Diccionario de Terminos Legales, Louis A. Robb, Downtown Book Center, July 2001.

Latinos Unidos
c/o Southern Empowerment Project
343 Ellis Avenue
Maryville, TN 37804
Tel. (865) 985-6500

Immigrants and the Criminal Justice System:
Latinos Unidos Pilot Study

Latinos Unidos is a membership-based community organization. There are currently four chapters in East Tennessee. The goals of the organization are to provide a voice for the Latino community, to educate the public about their needs, and to take action to address these needs. Latinos Unidos is sponsored by the Southern Empowerment Project (SEP), a group that trains community organizers and grassroots fundraisers.

Latinos Unidos is currently initiating a research project to examine the relationship between immigrant communities in Tennessee and the criminal justice system. Latinos Unidos hopes to collaborate with the Somali Community Center in Nashville and with a group in Memphis called Fuerza Latina Unida in order to make it a state-wide endeavor. We are currently conducting a pilot study focused on East Tennessee. The main objective of this phase is to identify issues that need further exploration and will be expanded upon in the larger project. Latinos Unidos hopes to share what it learns with immigrants and the general public. We are seeking the perspectives of both the criminal justice system and the Latino community.

Volunteers are conducting interviews with a range of people affected by these issues. Your interview will be confidential if you so request. In such case, your name and personally identifying information would not be included in any published materials. If you wish to withdraw from the study or change your mind about confidentiality after the interview, you may do so. If you have any questions or wish to request copies of any published materials, you may contact June Rostan of SEP at 865-985-6500 in Maryville. Thank you for your participation.

Latinos Unidos

Un afiliado del Southern Empowerment Project

343 Ellis Avenue

Maryville, TN 37804

Tel. (865) 806-6813

Los inmigrantes y el sistema penal:

Un estudio nuevo

Latinos Unidos es una organización comunitaria que busca que los Latinos en la región tengan una voz propia, al igual que una manera de solucionar sus problemas. Latinos Unidos cuenta con cuatro afiliados locales en la parte este de Tennessee. Latinos Unidos es apoyado por el Southern Empowerment Project (Proyecto del Empoderamiento del Sur, o SEP), una organización civil sin fines de lucro que ayuda a otros grupos comunitarios a organizarse y a recaudar fondos.

Actualmente, Latinos Unidos está empezando un estudio con el fin de examinar la relación entre inmigrantes en Tennessee y todo lo que es el sistema penal, incluyendo entre otras entidades la policía, las cortes, y las cárceles. En el futuro, Latinos Unidos espera colaborar con grupos en otras partes del estado, entre ellos una organización para refugiados Africanos, el Somali Community Center en Nashville, y otra en Memphis que se llama Fuerza Latina Unida. Sin embargo, en este momento, Latinos Unidos está enfocando en la región del este de Tennessee para identificar los problemas o las necesidades más serias que requiere mayor investigación. Latinos Unidos espera compartir los hallazgos de este estudio con el público. Se busca tanto las perspectivas de los que trabajan dentro del sistema penal, como las de miembros de la comunidad inmigrante Latina.

Los voluntarios están haciendo entrevistas con una variedad de personas relacionadas con este tema. Su entrevista será confidencial si lo pida usted. En este caso, su nombre y cualquier información que podría identificarse no estará incluido en los materiales publicados. Después de la entrevista, usted puede decidir que ya no quiere ser una parte del estudio, o puede cambiar su decisión acerca de la confidencialidad. Si tiene alguna pregunta o si quiere pedir una copia de documentos publicados, puede comunicarse con Megan al 865-806-6813. Gracias por su colaboración.

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project artifacts and images: Tennessee Immigrants and Criminal Justice



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La Tortilla, a Knoxville Latino foods store.

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Tennessee Immigrants and Criminal Justice Project Team Meeting.

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Tennessee Immigrants and Criminal Justice Project Team Meeting #2.

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Irma Gonzalez Freestate, Attorney, Maryville, TN.

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Howard H. Baker, Jr. U.S. Courthouse,
District of East Tennessee.

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Kimberly Pride and Michael Wright, Law Student Team Members.

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Tammy Haggard, Alianza del Pueblo.

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Santos Aguilar, Director, Alianza del Pueblo.

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Stephanie House, Project
Advisory Committee Member.

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Tennessee Immigrants and Criminal Justice Project Team Meeting #3.

Historia del Proyecto: Inmigrantes en Tennessee y el Sistema de Justicia Penal.

McKenna Cox, Kimberly Pride, y Michael Wright

[A.Perspectiva General](#)

[B.Antecedentes](#)

[C.Las Entrevistas](#)

[D.Resumiendo](#)



A.Perspectiva General

Trabajamos en este excitante proyecto, con sano entusiasmo y en equipo de tres colegas en la primavera del 2004 y en colaboración con Latinos Unidos, una organización de comunidades de base que trabaja en el esfuerzo por construir sedes locales en localidades específicas del Este del Estado de Tennessee. La profesora Ansley estuvo ardientemente involucrada con algunos de los aspectos del proyecto. Adicionalmente, promediando el mes de Marzo, recibimos una ayuda invaluable de parte de la asistente de investigación de la profesora Ansley, Spring Miller, quién es a su vez, ella misma, una estudiante de Derecho firmemente consustanciada con los derechos de los inmigrantes.

Los objetivos de Latinos Unidos son aquellos delineados en esfuerzos tendientes a *“posibilitar que la comunidad Latina sea escuchada, educar a la opinión publica acerca de sus necesidades, y entrar en acción a los efectos de abordar y/o discutir estas necesidades.”* El propósito fundamental de nuestro proyecto fue el de conducir una investigación preliminar respecto de las relaciones entre las comunidades de inmigrantes Latinos en el Este del Estado de Tennessee y el [Sistema de Justicia Penal](#) . Llevamos a cabo alrededor de veinte reportajes cualitativos y abiertos con Latinos nativos e inmigrantes en nuestra área, exploramos a través de una breve encuesta ([Comentarios de los Profesores sobre problemas en la encuesta](#)) a familias de inmigrantes, elaboramos conjuntamente un [Reporte Preliminar](#) y un Reporte Final sobre Latinos Unidos. El reporte incluyó notas de las entrevistas individuales, nuestras propias conclusiones y recomendaciones para investigaciones futuras y una guía básica general para público no profesional del Derecho acerca de las estructuras y procedimientos en Tennessee del Sistema de Justicia Penal.

Hemos aprendido enormemente durante este semestre, en tanto profesionales que conforman un equipo de trabajo acerca de asuntos delicados en lo que atañe a un segmento importante de nuestra población que ha emergido recientemente aquí en nuestra propia casa. Podemos afirmar, sin excepciones, que hemos experimentado un cambio profundo de nuestras propias perspectivas y razonamientos en un sentido mas francamente constructivo y duradero. Los esfuerzos mancomunados de Latinos Unidos y los estudiantes de derecho rindieron un fruto exquisitamente beneficioso para ambos grupos. Creemos, sin temor a equivocarnos, que similares futuras colaboraciones no serán tan solo deseadas sino activamente alentadas por los estudiantes.

Historia del Proyecto continúa | 1 de 6 | [próximo](#) >

Perspectivas de los colaboradores: Inmigrantes en Tennessee y el Sistema de Justicia Penal.

June Rostan, Ex-Directora Ejecutiva del Proyecto de Fortalecimiento del Sur.

Sin dudas, haber tenido la posibilidad de trabajar en este programa piloto con McKenna, Kimberley y Michael ha sido muy gratificante. Hemos trabajado y mantenido un franco espíritu de grupo junto a la profesora Fran Ansley y el Comité Asesor de Latinos Unidos liderado por Stephanie House y Santos Aguilar. Mayormente el trabajo más arduo fue llevado a cabo por el magnífico trío perteneciente a la Escuela de Derecho de la Universidad de Tennessee. Ellos condujeron las entrevistas con los inmigrantes y sus familias y con la gente que trabaja día a día en el Sistema de Justicia Penal en el Este del Estado de Tennessee. Lo que más me ha gustado observar fue verlos activamente aprendiendo a interiorizarse acerca de los problemas de los inmigrantes y particularmente la honesta pasión puesta de manifiesto al calor de los problemas cotidianos que los inmigrantes enfrentan en su lucha por ser tratados humana, digna y equitativamente. Ha sido un honor trabajar con todos ellos.



Inmigrante Hondureño entrevistado por los integrantes del equipo de estudiantes de Leyes:

Me gustó poder hablar con los estudiantes [hablando con los estudiantes](#) que están trabajando en este proyecto. El hecho de saber que todavía hay gente buena que se interesa por la difícil situación que nosotros padecemos como inmigrantes me hace sentir muy bien, en especial a todos nosotros nos gusta saber que hay gente que se interesa de verdad por el bienestar de nuestra comunidad. Me sentí muy bien luego de hablar con los estudiantes porque he podido aportar realidades y experiencias totalmente ajenas y nuevas para ellos. Estaría dispuesto a hablar nuevamente con gente nacida aquí sobre mi vida y experiencias tan pronto sepa que no hay policías alrededor! También, alguna vez pienso que sería lindo ver a los estudiantes nuevamente en otro lugar y poder hablar de cosas que no tengan que ver con su trabajo, más como amigos.

Spring Miller, Asistente de Investigación de la Profesora Ansley:

Llegué a Knoxville casi promediando la mitad del semestre de otoño y enseguida me encantó ver el profundo grado de dedicación que los estudiantes mostraban por este proyecto. Ellos han sabido bucear en un sinnúmero de historias y obtener información vital sobre el tema al tiempo que ganaban terreno en una compleja red de contactos dentro de las comunidades de inmigrantes como así del Sistema de Justicia Penal. He quedado impactada por el grado de profesionalismo y de sus recursos. Indudablemente



Reflexiones de estudiantes: Inmigrantes en Tennessee y el Sistema de Justicia Penal.

McKenna Cox, Kimberly Pride, y Michael Wright

Antes de comenzar con nuestras reflexiones pensamos que los lectores bien podrían estar interesados en saber un poco más de nosotros. Ante todo, este fue un proyecto de investigación y a los efectos de comprender cabalmente los mecanismos de dicha investigación ustedes necesitan comprender primeramente a los investigadores. Siendo que la objetividad mejor entendida fue el claro horizonte de nuestro proyecto es sabido que la así llamada *objetividad absoluta* es virtualmente imposible en un sentido práctico y realista de materializar en cualquier emprendimiento serio, especialmente cuando de comportamiento humano se trata. De manera que para más información acerca de nosotros, haga click en [McKenna Cox](#) , [Kimberly Pride](#) , y [Michael Wright](#) .

Nuestras reflexiones, indicadas mas abajo, están divididas en tres secciones principales:

- A. Dificultades y frustraciones
- B. [Inesperado punto crucial](#)
- C. [Reflexiones individuales de los miembros de grupos](#)

A. Dificultades y frustraciones

1. Logrando entrevistas

Como fue oportunamente puntualizado en un reporte confeccionado por uno de nosotros a la Profesora Ansley, “*La mayor frustración, sin dudas, al trabajar en un proyecto basado en entrevistas es planear apropiadamente las entrevistas en sí.*” Léase ([comentarios de los profesores sobre cómo sortear obstáculos](#)) Seguidamente se podrán leer aquí algunas observaciones hechas por algunos de nosotros a propósito de este aspecto de nuestro trabajo:

Es curioso saber cuánta gente hay que simplemente no responde nuestros llamados telefónicos. En mi caso, la mayor frustración fue el hecho de constantemente intentar lograr un punto intermedio entre ser persistente y no importunar con mis llamados a nadie. Sé que otros en mi grupo de trabajo han tenido la misma experiencia frustrante .

* * *

El hecho de llevar a cabo estas entrevistas para este proyecto ha sido cuanto menos lineal, dada la libertad que hemos tenido con las preguntas. Ahora bien, *planear* y *concertar* entrevistas fue totalmente otra historia. En líneas generales, los problemas originados en concertar entrevistas con aquellos aún deseosos de ser entrevistados fueron problemas atribuibles no tanto a sus horarios o actividades sino al relativo corto tiempo que el semestre nos permitió, en tanto estudiantes, a llevar a cabo las entrevistas. Por ejemplo, un clérigo al que habíamos contactado se mostró deseoso de concertar una entrevista. Sin embargo solo nos llevó un par de fechas de entrega, unos cuantos conflictos de trabajo de mi parte y un viaje programado a Venezuela de su parte para posponer nuestro encuentro más allá del límite admisible para la concreción de nuestro proyecto.

* * *

Hacer que la gente responda a un simple llamado telefónico resulta sorprendentemente dificultoso. Hemos dejado mensajes describiendo nuestro proyecto, y también aquellos mensajes que decían claramente que éramos estudiantes de Derecho. Resulta cuanto menos frustrante tratar de hacer contacto con alguien con quién de verdad quieres comunicarte y no obtener respuesta alguna, o ni siquiera recibir un llamado semanas más tarde.

reflexiones de estudiantes continuación | 1 de 6 | [próximo](#) >

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Artefactos e imágenes: Inmigrantes en Tennessee y el Sistema de Justicia Penal.

Artefactos (forma PDF)

Oportunidad de Conseguir Fondos

Lo primero que llevó a pensar a Latinos Unidos en trabajar con abogados y estudiantes de Derecho fue una "Llamada hacia Cartas de Intención" publicada por la Fundación Participativa por la Innovación de la Justicia Racial. La publicamos ahí porque consideramos interesante el tono edificante en el que describe la franca cooperación entre abogados y comunidad, además de parecernos que otras personas podrían estar del mismo modo interesadas en leerla.



Reporte Preliminar sobre un estudio piloto, Abril 2004

Latinos Unidos deseaba un Reporte Preliminar que ellos pudiesen mostrar a los potenciales contribuyentes financieros justo promediando el semestre, y eso fue exactamente lo que elaboramos.

Glosario Español-Inglés de Términos Legales

Tan pronto fuimos trabajando en este proyecto, comenzamos a darnos cuenta que no es nada, pero nada fácil llevar a cabo traducciones fidedignas de términos y conceptos legales.

Spring Miller, asistente de investigación de la profesora Ansley, se ofreció como digna voluntaria en la coordinación de este profuso glosario, ya que venía de una rica experiencia amasada en América Central en comunidades urbanas en el Noroeste y el Oeste Central. Somos conscientes que los usos varían y que las traducciones pueden llegar a constituirse en empresas sumamente frustrantes y arduas. Desde ya todo tipo de feedback constructivo es más que bienvenido

Cambios Demográficos en Tennessee: Encuesta sobre Demografía e Investigación en Ciencias Sociales

Nos dimos cuenta que mucha gente con la cual hablamos nos preguntaba acerca de la naturaleza y la magnitud de los cambios demográficos que se están operando ahora en Tennessee, el Sureste, y, por tal caso en toda la nación. Spring Miller, asistente de investigación de la profesora Ansley, ordenó y clasificó adecuadamente esta encuesta sobre información disponible sobre el particular

Inglés

Español

El documento de Latinos Unidos explica someramente el estudio piloto hacia los potenciales participantes. Esta es la denominada "carta de presentación" diseñada y pacientemente elaborada por Latinos Unidos a los efectos de explicar el proyecto, de ofrecer confidencialidad, etc.

Imágenes

He aquí algunas de las imágenes de nuestro proyecto. Obsérvese por secuencias en la [galería](#), o bien ir al listado indicado mas abajo.

La Tortilla, a small community store

Equipo del Sistema de Justicia Penal para Inmigrantes de Tennessee - Encuentro número 1

Equipo del Sistema de Justicia Penal para Inmigrantes de Tennessee - Encuentro número 2

Irma Gonzalez Freestate, Abogado, Maryville,TN

Howard H. Baker, Jr. Palacio de Justicia de los Estados Unidos, Distrito del Este de Tennessee

Kimberly Pride y Michael Wright, Miembros del Equipo de Estudiantes de Derecho

Tammy Haggard, Alianza del Pueblo

Santos Aguilar, Alianza del Pueblo

Stephanie House, Miembro del Comité Asesor del Proyecto Latinos Unidos

Equipo del Sistema de Justicia Penal para Inmigrantes de Tennessee - Encuentro número 3

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Comentarios de los Profesores: Inmigrantes en Tennessee y el Sistema de Justicia Penal

Esta sección recopila varios comentarios de los profesores que emergieron en los segmentos de esta selección denominados Historia del Proyecto y en Reflexiones de Estudiantes.



A. Comentarios acerca de Historia del Proyecto

Problemas con los cuestionarios de investigación Racismo y fichaje o perfilamiento

B.Comentarios sobre las reflexiones de estudiantes

Dificultades en sortear y resolver obstáculos

Sobre cómo trabajar con organizaciones de base

Sobre falta de estructuras adecuadas y cambio de expectativas

Sobre cómo comunicarse con los inmigrantes

Problemas con los cuestionarios de investigación.

Como ha sido descripto por los mismos estudiantes, el corazón de este proyecto se basó en una serie de entrevistas abiertas, semi-estructuradas. Sumado a este trabajo cualitativo Latinos Unidos decidió efectuar un aporte concreto a nuestros cuestionarios de investigación. Su plan fue desarrollar un instrumento simple de una página que pudiese ser distribuido en las reuniones locales que el grupo acordara durante el transcurso de la primavera. El Comité Asesor de Latinos Unidos (LU) pensó que dicho cuestionario de investigación podría proveer a la organización de una idea global acerca de la impresión que tendrían los inmigrantes Latinos que residen en nuestra área del Sistema de Justicia Penal en general y, sobre todo, qué pensaban en realidad sobre nuestros hallazgos y esfuerzos de investigación. Podría acaso también ayudar a Latinos Unidos a identificar a personas con problemas significativos que ellos quisieran particularmente discutir o asimismo compartir dentro del contexto de una entrevista, el tenor de sus historias.

Como era de preveer, el cuestionario de investigación se encontró con un sinnúmero de dificultades. Al momento que LU finalmente tomó la decisión de llevarlo a cabo se aproximaban las fechas de los encuentros comunitarios ya programados de manera que el texto final fue elaborado y traducido al Español bajo una presión muy fuerte y una limitación muy grande en cuanto al factor tiempo. Borradores escritos en e-mail comenzaron a circular en un proceso de esbozo general liderado por el Comité Asesor, pero sufriendo de un déficit de tiempo ostensible para su posterior discusión o deliberación pormenorizada. Inclusive, uno de los estudiantes se sintió particularmente frustrado porque contaba con una rica experiencia en cuanto a la metodología e implementación de cuestionarios de investigación que hubieran podido acrecentar notablemente el resultado final de haberse contado con más tiempo.

Contra viento y marea, se elaboró una muestra piloto del cuestionario de investigación que Latinos Unidos distribuyó en una reunión comunitaria. El experimento, claro está, reveló muchos problemas especialmente cuando se le pidió a la gente que llenara por las suyas un formulario. Cuando uno de los estudiantes y miembro del Comité Asesor luchaba a brazo partido por recopilar resultados, tristemente se comprobó que muchos de los formularios o carecían de respuestas específicas o claramente exhibían grandes inconsistencias. Concluimos entonces que muchas de las preguntas no habían sido siquiera entendidas.

Some problems no doubt came from translation glitches. I doubt that many people were confused by a few embarrassing but intelligible English-induced typos (for instance, our use of "imigrante" for the correct "inmigrante," or "systema" for "sistema"). But more people were probably left wondering by our literal translation of "criminal justice system" into "sistema justicia criminal." (We later ascertained that "sistema penal" would have been the correct translation.)

Muchos de los problemas se debieron, sin lugar a dudas, a claros problemas de traducción. Dudo que mucha gente se haya sentido confundida por el simple hecho de aparecer algunos caracteres peculiares típicos del idioma Inglés. Por ejemplo, nuestro uso de "immigrante" en vez de la correcta denominación de "inmigrante," o de "systema" por el conocido "sistema". Pero, bueno es decirlo, mucha gente quedó en la nebulosa debido a nuestra traducción literal de "criminal justice system" por el del simple "sistema de justicia criminal." Mas tarde comprendimos que "sistema de justicia penal" era la traducción correcta.

Sin embargo, más allá de estos entendibles errores de traducción sabemos que otras preguntas simultáneamente aparecieron. Algunos miembros de la comunidad tenían una muy limitada experiencia en elaborar cualquier tipo de material escrito, aún en idioma Español. Y por tal caso, no es menos cierto que constituye todo un arte estructurar las preguntas de una manera accessible que le permita a la gente acceder y manejar el cuestionario sin temores y de una manera más serena y confiable. De últimas, concluimos que para que Latinos Unidos obtenga resultados concretos y satisfactorios con este tipo de documentos, los cuestionarios de investigación se deberían llenar -ya sea en forma individual o en pequeños grupos- de manera tal que se detecten rápidamente malos entendidos e inconsistencias de cualquier índole y se proceda a su posterior clarificación sobre la marcha, en el momento justo.

Por supuesto como bien lo saben los profesores, algunas veces los grandes fracasos metodológicos pueden constituirse en la mejor de las oportunidades de aprendizaje para todos. En todo caso esto no constituyó un gran fracaso, ya que fué solamente una pequeña parte del conjunto total del proyecto y terminó ofreciendo un buen servicio para lo que el experimento piloto en última instancia fue llamado a ser.

Es más, avisoramos una serie de respuestas cualitativas y por demás altamente ilustrativas en tanto la calidad y la cantidad

de preguntas abiertas con el que terminanos agenciándonos al final del cuestionario de investigación. Pero al menos en tanto y en cuanto a mi propia experiencia de aprendizaje, me dí cuenta que las partes del "fracaso" del experimento fueron por cierto incuestionablemente provechosas.

Son éstos pequeños traspiés los que me permitieron ver en detalle como aún la más planificada de las comunicaciones, es decir aquellas comunicaciones permeadas por el inasible factor humano que por definición apuntan a un uso general y práctico de los cuestionarios de investigación por parte de la población, pueden imprevisitamente tornarse complicadas.

Racismo y fichaje o perfilamiento

Los alarmantes reportes sobre *fichaje* étnico y racial que oportunamente el equipo de estudiantes recibieron de parte de los inmigrantes Latinos en algunas comunidades fueron causa de una gran preocupación tanto para ellos como para mí. Fué a todas luces deprimente para nuestro grupo, mayoritariamente de raza blanca, escuchar que en comunidades aún cerca de nuestros propios hogares algunas personas dijeran tener que caminar por la calle como si estuvieran bajo una atmósfera que nosotros asociamos claramente con un estado policial.

Fué aún peor escuchar por boca de la propia gente que debido a su idioma o raza ellos fueron interceptados (*demorados*) y cuestionados con clara alevosía y en exceso por las autoridades policiales y, más aún, sistemáticamente tratados durante todo el procedimiento con una absoluta falta de respeto. Pero también supimos que para aquellos que estaban indocumentados tales encuentros implica la amenaza de mayores y más drásticas medidas y consecuencias lo que equivale a decir inspira aún mas ansiedad y justificado temor de lo que normalmente y bajo otras circunstancias podría y debería ser la norma.

Nuestra preocupación mayor fue velar por la salud y derechos humanos de los inmigrantes. Aunque hayamos empezado y terminado el proyecto con algunas legítimas discrepancias entre nosotros respecto de algunos no menos legítimos cuestionamientos acerca de las políticas migratorias, todos nosotros coincidimos plenamente que el denominado estatus de *indocumentado* no constituye, es más, no debería constituir motivo alguno de lisa y llanamente vulnerar los derechos humanos y las protecciones legales en el mundo de hoy que le cabe a un inmigrante internacional. Sin embargo, mas allá de nuestras claras preocupaciones por el bien de los inmigrantes y sus derechos nosotros estábamos también preocupados hasta por los nuestros propios. Comenzamos a escuchar de parte de los inmigrantes los entretelones de una situación por demás preocupante. Básicamente nos reportaron las aristas de un submundo en el que un segmento racialmente demarcado y legalmente definido del conjunto de los trabajadores era sujeto a una acción policial arbitraria, de carácter abiertamente coercitivo del tipo que no sería jamás tolerada de ser perpetrada a los ciudadanos de este país. Y hete aquí que este decadente submundo quedaba exactamente aquí a la vuelta de la esquina, en nuestra propia Nación, en nuestros propios barrios, en nuestras propias calles, en suma hablaba del carácter y conductas más profundas de nuestros propios vecinos. Fué muy duro para nosotros, en efecto, comprobar hasta qué punto tal situación pudiese llegar a corroer los cimientos de las libertades civiles más elementales y los valores igualitarios y democráticos de la sociedad en su conjunto.

También pudimos observar que hacer frente abiertamente a estas prácticas discriminatorias podría llegar a ser francamente contraproducente. Solo unos pocos inmigrantes se atreven a dar un paso hacia adelante esgrimiendo legítimos reclamos respeto de este reprensible, pobre accionar policial. Nos preguntamos: ¿Cómo puede uno de verdad proceder, como profesional de Derecho, si la gente no se atreve a verbalizar sus historias por temor ?

(Un grupo importante de gente que en rigor se atreve a verbalizar sus objeciones respecto de los altercados con la policía son los demandados penales que buscan así excluir o minimizar la evidencia encontrada en el curso de un arresto o investigación dados. Después de todo, como estos demandados se encuentran ya circunscriptos dentro de todo un largo procesamiento penal tienen poco que perder y mucho que ganar al abrir estos interrogantes. Sin embargo, tales objeciones han contribuido muy poco para el avance cualitativo, real y sostenido desde el punto de vista del Derecho por el mejoramiento de los derechos constitucionales de aquellos fácilmente susceptibles de ser interceptados o *demorados* por la policía. La Ley que así emerge precisamente de esta catarata de quejas y casos de testeo respecto de la dimensión cabal y complejidad de las llamadas intervenciones policiales es muy compleja y abiertamente desfavorable para el acusado.)

Mientras tanto, el tenso micro clima instaurado inmediatamente luego de Septiembre 11 llevó a una situación en la cual el fichaje racial o *perfilamiento* partiendo de parámetros de nacionalidad u origen, cuando no religiosos, se hizo más evidente y abiertamente ejercido y tanto más *tolerado* por la opinión pública en general. De modo que antes de Septiembre 11 un sano consenso social pareció estar basado en dos puntos en ambos espectros de la opinión pública y hasta dentro mismo de una parte importante de la comunidad de las autoridades policiales: primeramente, que el fichaje racial (como aquel tristemente célebre "conduciendo si se es Negro") fué una práctica infamante y muy común en América; y en segundo término, que ésta conduca fué altamente nociva y a todas luces destructiva para la sociedad en su conjunto, ergo, pasible de ser detectada rápidamente y a posteriori erradicada de inmediato. Desde mi punto de vista es realmente importante para los habitantes de los Estados Unidos de América que viven en la actual era post-Septiembre 11 poder defender ese consenso pre-Septiembre 11 que había previamente empezado a emerger a propósito del serio problema del fichaje racial. También es sumamente importante que podamos encontrar caminos alternativos que nos permitan educar y alertar a nuestra población acerca de que los asuntos de inmigración y seguridad pueden girar potencial y peligrosamente hacia nuevas formas de un abierto racismo.

En todo caso, el así llamado fichaje racial o *perfilamiento* es factible de constituirse en un serio asunto en tanto los derechos de los grupos de inmigrantes que residen en el Estado de Tennessee, merecedor de una atención especial en un futuro inmediato precisamente dado el inmediato y palpable impacto de la comunidad Latina en particular. Mas aún, los Afro-Americanos fueron pioneros en esta lides y han hecho un honorable y duro trabajo bajo el yugo de estas detestables, horrendas conductas antisociales durante generaciones, y, como bien se sabe cientos de veces han llevado a cabo a brazo partido honrosas luchas por sus derechos y conquistas sociales a los efectos de no solo exponerlas sino enfrentarlas y de último abolir, extirpar estas prácticas vergozosamente racistas y discriminatorias. El contexto, de tal modo, claramente nos pone de cara ante una oportunidad y apertura potencialmene únicas para edificar coaliciones basadas en principios éticos, democráticos y en abierta defensa de los derechos humanos de todos.

B. Comentarios anotados sobre las reflexiones de estudiantes

Dificultades en sortear y resolver obstáculos

Los estudiantes comprometidos con este proyecto se mostraron prestos y flexibles acerca de vehiculizar entrevistas y sobre todo encontrar caminos alternativos en la tarea de obtener información sobre todo de las personas cuyas perspectivas queríamos escuchar. Me quedé gratamente impresionada con el rango de las entrevistas que fueron capaces de obtener de Latinos Unidos, y por cierto feliz con el abanico amplio de perspectivas que alcanzamos. No obstante, tal como lo reflejan los comentarios unánimes de todos los estudiantes en la Historia del Proyecto, el solo hecho ya de planear y llevar a cabo este

tipo de entrevistas puede llegar a ser un gran dolor de cabeza en más de un sentido.

Los estudiantes de Derecho en líneas generales no se sienten muy a gusto con respecto a verse enredados en frustrantes llamadas telefónicas dado que raramente se encuentran disponibles en horarios de oficina y ni que hablar en oficinas propias. Así mismo raramente tienen a alguien que les tome mensajes, y viven pendientes de horarios las más de las veces adversos o cortados por espacios disparatados e irregulares e inclinados a llevar a cabo y, lo que es peor, intentar resolver tareas académicas altamente complejas en un limitado marco de tiempo dictado por terceros. Nada de esto es lo que se dice conducente o práctico de estructurar en lo que atañe a la duración de un semestre y al calibre de un proyecto serio, o por tal caso a consumir contactos telefónicos con gente que no está motivada o no desea ser contactada aún teniendo en cuenta la legitimidad de la empresa. Es sabido que los teléfonos celulares ayudan pero no ofrecen soluciones mágicas a nuestros problemas.

Repetimos, un simple contacto telefónico es por ejemplo tan solo una pequeña instancia de un fenómeno más vasto. Muchos estudiantes de Derecho parecieran experimentar serios problemas al querer conectarse eficientemente más allá de las cuatro paredes de la Universidad. En algunos casos, la causa profunda tiene que ver con la mayor o menor habilidad y tiempo del que se dispone. Insisto, muchos estudiantes de Derecho vienen a nosotros con muy poca o nula experiencia, la cual uno de mis colegas da en llamar "zarandeando el árbol". De modo que trato de ser lo suficientemente consciente y ayudar a estos estudiantes a hacerse responsablemente cargo y reconocer no solo la necesidad y alcance pero sobre todo el potencial de sus habilidades profesionales.

Claro está que dichas habilidades profesionales no son el único motivo de preocupación. Entiendo que existen otras razones que dan pie a los obstáculos que muchos estudiantes de Derecho tal parece encontrar cuando se les asignan tareas que requieren de ellos zambullirse con determinación en nuevos territorios, efectuar llamados en frío a los efectos de facilitar recursos a la gente, o ejercer otros tipos de contacto o cadena. Una vez que los estudiantes entran puertas adentro de nuestras aulas es sabido que se sumergen en un experiencia totalizadora que hace que la comunicación con el mundo exterior resulte cuanto menos problemática o parcializada en muchos aspectos, aún para aquellos que hasta suelen estar relativamente bien conectados de antemano y que poseen habilidades innatas.

No poseo ni puedo ofrecer consejos mágicos. Pienso que sería de gran ayuda si los profesores explícitamente hablasen abiertamente desde el vamos y sin temores de estos asuntos. Por mi parte trato de hacerles saber a los alumnos que soy plenamente consciente de los obstáculos con que se habrán de encontrar, es más, trato de advertirles —de antemano, y antes que los desafíos mayores se tornen inmanejables- de la rigurosa preparación investigativa previa necesaria, de la importancia de una iniciativa creativa y que una notable e infatigable persistencia será más que requerida y apreciada. Más que nada, caracterizo al proceso en sí mismo como una oportunidad única de aprendizaje. Observo tambien que materializar recursos específicos requiere energía y oficio y que las habilidades que entran en juego pueden llegar a ser ventajosas tanto para abogados como para periodistas y sociólogos. Curiosamente, aún en semestres cuando temí que había machacado dura, temprana y muy frecuentemente en temas como éstos es casi factible que aún reciba devoluciones de estudiantes al final del semestre que expresan que hubieran deseado que yo hable aún más clara y anticipadamente sobre los mismos. Para sorpresa de mucha gente y a veces de la mía propia viene uno a darse cuenta de lo mucho o poco que uno puede dar por sentado un mensaje que, a la postre, no había sido articulado apropiadamente.

Sobre cómo trabajar con organizaciones de base

Una de las creencias mas firmes sobre la lucha por la justicia es que debe ser imbuída de las voces, energía y capacidad de liderazgo de gente que son, en rigor de verdad, los más directa y negativamente afectados por un multiplicidad de acontecimientos desfavorables. De lo contrario, aún los mejores esfuerzos devendrán irremediamente insuficientes en producir cambios significativos. Si de verdad queremos ver una sociedad más democrática, equitativa y participativa, entonces los esfuerzos que nosotros producimos y por los cuales peleamos deben reflejar y corporizar aquellos claros objetivos desde el principio. Sobre esta base, cuando me encuentro investigando campos potenciales de trabajo, siempre estoy a la búsqueda de grupos de base que estén ya trabajando con los más marginales y excluidos porque lo que persigo es darles a mis estudiantes la oportunidad de trabajar en este tipo de terreno de la manera más profesional posible.

No son éstos lo que se dicen tiempos fáciles para tales organizaciones de base. Los fondos son exiguos. Se sabe que es virtualmente imposible tener acceso a los medios de comunicación masiva. Mucha gente se siente muy infeliz acerca de cómo son las cosas, cuán injustas, pero tienen poca o ninguna esperanza en que ellos mismos puedan hacer una sustancial diferencia, y de cualquier manera tampoco cuentan con el tiempo material para inmiscuirse en asuntos civiles una vez que asumen las entendibles demandas de un trabajo o una familia. Es en este clima que, las organizaciones de base, frecuentemente encuentran extremadamente dificultoso atraer nuevos miembros que asuman un activo rol de liderazgo en tanto las demandas de trabajar junto a otras almas por una causa noble y en común.

Algunos estudiantes de Derecho con historias de trabajo concreto en estos esfuerzos son plenamente conscientes de estas duras realidades. Sin embargo, he sabido de muchos estudiantes que carecen de tales experiencias. Por ejemplo, existen estudiantes que a pesar de estar genuinamente interesados en algún asunto en particular y, claro está, sentirse ansiosos por trabajar con un grupo local presuponen casi siempre que sera *fácil* convocar a un número grande de personas en tanto y en cuanto el asunto en cuestión afecte a la mayoría de estas personas y simplemente uno haya tomado los pasos necesarios para publicitar convenientemente tal evento.

Puedo vívidamente recordar el día que, hace unos años atrás, una estudiante me confió que ella de verdad esperaba *cientos* de personas neófitas e interesadas en atender un taller destinado a esclarecer el tema de reforma del sistema de asistencia social. En su razonamiento entendía que el asunto era sumamente importante y que la organización hasta había transmitido por radio avisos alusivos, diseminado y hecho pegatinas en tiendas de la zona, difundido gacetillas en boletines murales de la iglesia, en lavaderos, y también en estratégicos postes de teléfonos por todo el barrio y que se habían hecho anuncios en los mitines previos al día del taller. Parecía hasta como obvio para ella que el espacio asignado iría a estar colmado a bote. Cuando "solo" aparecieron 15 personas, ella se sintio desfallecer.

Desde aquel momento como pedagóga trato de hacer un mejor trabajo al darle a mis estudiantes una idea mas acabada y sobre todo realista en tanto participación cívica y explicarles con claridad los serios obstáculos a los cuales se enfrentan los distintos grupos en el sano intento de construir organizaciones con membresía desde la raíz. Comparto plenamente con mis estudiantes la importancia de que estos grupos cuenten con abogados quiénes comprendan la dimensión real de los problemas a enfrentar, profesionales quienes de verdad se encuentren preparados en superar los duros obstáculos típicos de estos esfuerzos.

Sobre falta de estructuras adecuadas y cambio de expectativas

Cómo me gustaría poder decir que el problema que señalan los estudiantes habla solamente de la realidad en sí misma. Que, por ejemplo, la gente que desea trabajar seriamente con organizaciones de base y poblaciones en situaciones de desventaja o marginales solo necesitan adaptarse al flujo de trabajo de dichas comunidades, adaptarse a los golpes duros, permanecer flexibles, etc. Desde luego, todos estos principios de sabiduría serían hasta creíbles. Y hasta también podría añadir, sin temor a equivocarme, que el rígido calendario de la Escuela de Derecho flaco favor le hace al sentido de adaptabilidad y franca respuesta que los estudiantes ponen en acometer estos desafíos. Pero luego de muchos años de docencia y unos cuantos más de recibir honestas devoluciones de los estudiantes, no puedo dejar de soslayar una primera conclusión preliminar cuál es la de que hasta mi propia personalidad juega un rol en cuanto a cómo todas estas cuestiones se desarrollan y evolucionan en mis cátedras.

Si se dejara por un minuto todo en mis manos, hasta me atrevería a rediseñar los requerimientos académicos una y otra vez durante la mayoría de los semestres, en el ánimo honesto de ir siempre redescubriendo y permanenciendo alerta al fenómeno de cómo mi concepto original, mi punto de partida teórico podría ser reexaminado y por ende maximizado académica y creativamente en tanto me permita ir viendo como la cosas van tomando forma. Acaso un tímido dos por ciento de la poblacion vería esto hasta como una fuerza liberadora mientras que el resto muy probablemente, atónito, se arrancaría en su desesperación sus cabellos...o los míos.

De manera que trato aquí de clarificar los requerimientos de la cátedra y no solamente en el ánimo de darle a mis estudiantes la información que ellos seguramente necesitan y merecen, pero también para encuadrarme a mí misma en el mismo intento. Por ejemplo, me concentro firmemente en el manejo del factor tiempo hasta en sus pequeños detalles, en sintonía con expectativas realizables y mucho más de lo que lo venía haciendolo. Programo, por caso, ni bien comenzado el semestre sesiones programadas atinentes a cada equipo de trabajo de campo donde el objetivo trazado es precisamente el de delinear el evento o producto final que culminará el semestre como así el comienzo de planes simultáneos en sentido inverso partiendo desde ese mismo peldaño en donde las actividades aparentemente culminaron.

De cualquier manera, sé por experiencia propia, que aún lo que percibo como mis más firmes esfuerzos por mantener un marco estructural sólido sin dudas aparecerá en el decurso de los acontecimientos hasta como potencialmente amorfo para más de un estudiante. En todo caso estoy más que abierta como profesional a enmendar cualquier tipo de rigidez tan pronto se presente máxime de haberla accidental e inadvertidamente creado yo misma. Básicamente porque la mejor manera de enmendar o enfrentar estos obstáculos es reconocerlos de inmediato en su misma y entera dimensión y obrar en consecuencia.

El proyecto de Latinos Unidos engloba todos y cada uno de estos acuciantes y no menos desafiantes temas. Mi memoria me lleva de inmediato a vernos activamente sentados al comienzo de cada semestre empezando a esbozar por enésima vez un trazado general que hará las veces en el futuro inmediato del reporte final, inquiriéndonos honestamente qué nuevos aportes, qué nuevos caminos se trazarán y cómo lucirán éstos a los ojos de la organización. Me sentí tantas veces tan satisfecha por la estructura elaborada, por la franqueza y pureza de la expectativas.

Pero los estudiantes no se equivocan en sus apreciaciones, se requieren un número considerable de agotadoras reuniones con nuestro Comité Asesor antes de que siquiera alcanzemos un consenso provisorio. Y muchos otros giros y vueltas de tuerca emergen antes de que nos dámos por enterados que el mismísimo semestre llega a su inexorable fin. Podría ciertamente haber hecho algo más para resistir los cambios llevados a cabo por nuestros compañeros comunales ya que jugué el rol de intermediario entre los estudiantes y Latinos Unidos. Y es muy factible que algunos de esos mismos cambios fueran hasta iniciados en parte por mí o al menos recibieron mi consentimiento. Imagino que todas estas dudas y tensiones me persiguirán durante el tiempo que me mantenga activa como docente. Mi estrategia básica, hasta este punto, tiene dos aristas bien delineadas. Primeramente, anticipo verbalmente a mis alumnos de las potenciales rigurosidades en tanto los materiales de mis cursos y hasta me involucro todas las veces que sea necesario en mi afán de dejar bien claro que ellos pueden consultarme tantas veces lo necesiten. En segundo término, trato de calmar mis propias tendencias problemáticas a traves de varios límites y compromisos auto-infligidos que son oportuna y públicamente verbalizados en un estadio temprano del curso. El libro que lleva por título *Comprendiendo por Diseño*, que aparece en el listado de la sección Recursos del *Teacher's Overview*, ha sido sin dudas no solamente de una gran ayuda sino un desafío intelectual en este aspecto porque sugiere caminos que nos llevan a refrescar con mayor y mejor claridad y estructura el largo proceso de lograr y definir objetivos medulares de aprendizaje real.

Sobre cómo comunicarse con los inmigrantes

Esta no es la primera vez que los estudiantes me han comentado que las experiencias más significativas desde el punto de vista profesional y del verdadero aprendizaje en tanto trabajo de campo se manifestaron en un *encuentro como éste*. Es así que cuando digo "encuentro como éste" no tengo todavía un definición exacta de lo que en realidad ocurre, pero he llegado a pensar en estas coordenadas como si fuesen "momentos del otro lado". Más concretamente las instancias que estoy pensando parecieran comprender (1) momentos que fueron muy inusuales por lo reveladores, fuera del conocido territorio físico y hasta metafórico del *ambiente* del estudiante (2) momentos que han invertido -o por lo menos alterado- la predominante y supuesta jerarquía social y (3) momentos que toman como eje la comunicación humana, persona-a-persona, rompiendo o llendo mas allá de las variables o líneas sociales divisorias tal cual las percibimos.

En 1997 co-enseñé un curso junto a una notable catedrática y activista de la zona de los Apalaches llamada Helen Lewis sobre la reforma de la asistencia social. Esto transcurrió durante el tiempo que el programa de reforma de asistencia social de Clinton fue ganando espacio y gente en todo el país estaba tratando de monitorear e influenciar cómo los distintos Estados podrían traducir el mandato de trasladar a las madres solteras, en su rol de beneficiarias del plan de asistencia social, al campo de la fuerza de trabajo dado que los empleos disponibles para mujeres sin educación eran palpablemente insuficientes aún para mantener una familia de presupuesto modesto en el mundo real.

El principal "momento del otro lado" en ese curso tomó cuerpo durante un fin de semana en un taller en el Centro Highlander, el cual habíamos abierto ese semestre. Invitamos a varias mujeres de la región ya sea de raza blanca o Afro-Americana que hubiesen estado "dentro del sistema" de asistencia social en algún punto en el pasado y quienes por distintas razones devinieron en líderes comunales comunales. Les preguntamos si podían programar un plan educativo para nuestros estudiantes para ese sábado en el corazón del taller, un programa que les permitiése estudiar y comprender la reforma en nuestra área. Pues bien, las mujeres así lo hicieron, dejándonos boquiabiertos a todos. La metodología de estas mujeres incluyó el compartir sus propias historias proveyendo para ello el marco teórico sobre el estado de la asistencia social en la zona de los Apalaches, pre-avisándonos de las emociones fuertes que más que seguro las personas en el taller irían a experimentar sobre el curso de las investigaciones, conduciendo ejercicios interactivos y desgrabando y realizando al mismo tiempo entrevistas, y, claro está, dejando el terreno libre para la discusión franca y abierta.

Virtualmente cada estudiante en el taller luego reconoció y caracterizó a estas sesiones de los sábados como verdaderas 'abridoras de cabeza', las que ayudaron a reorientar, inspirar y seguramente 'mover el piso' de todo el mundo. En definitiva,

todos las reconocieron como tremendamente importantes para el trabajo que ellos mismos ahora tendrían que llevar adelante por lo que restaba del semestre. En términos del criterio empleado para definir el "momento del otro lado" más arriba descripto, nótese lo siguiente:

(1) El contexto fue altamente *inusual*. Invertimos un fin de semana entero en una zona rural totalmente fuera de la Escuela de Derecho. Vivimos, con entusiasmo, en un estilo tipo emplazamiento estudiantil atípico en lugar de estar llendo y viniendo por espacios estándares de los conocidos módulos de 50 or 75 minutos. Nos sentamos en un círculo de sillas-hamacas en el Centro Highlander en vez de estar en los asientos de nuestra Escuela. Cantamos e hizimos juegos teatrales juntos durante la tarde, nos entremezclamos con un grupo loco de estudiantes de Derecho de Harvard, y hasta de académicos por los derechos de asistencia social y activistas de Boston quiénes fueron invitados por la Profesora Lucie White para que se sumaran a nuestro taller y por supuesto incluídos en el círculo se encontraban un número de beneficiarios, presentes y pasados, de los programas de asistencia social. Ninguna de estas ventajas o prácticas son lo que se dicen estándares en el protocolo de nuestra Escuela de Derecho.

(2) La sesión del sábado fue distintivamente *modificada*. Los estudiantes de Derecho no fueron esta vez invitados a considerar cómo mejor prepararse para el *salvataje* o reforma de los beneficiarios en franca necesidad de su ayuda, generosidad y visión profesional. Fueron ellos, los que fueron puestos a disposición de los anteriores beneficiarios y actuales activistas de bajos recursos para así aprender acerca del sistema de asistencia social y de sus febriles esfuerzos por cambiarlo.

(3) Para la mayoría de los estudiantes de Derecho de UT el mero hecho de haber tenido la oportunidad de interactuar con este tipo de líderes de talleres fué, a todas luces, una comunicación que fué más allá de la línea divisoria social. Muy pocos o casi ninguno de los estudiantes de UT estuvo jamás bajo el programa de asistencial social ya sea de niños o como adultos, o lo que es más notable, jamás habían hablado directamente con un beneficiario de este tipo de programa acerca de estos asuntos o acerca de su concepción del mundo. Más tarde, durante el transcurso del semestre a cada estudiante le fué asignada la tarea de encontrar la manera de entrevistar a una persona que estuviese en el presente amparada bajo estos programas. Esta tarea resultó ser por demás un gran desafío, y llevó a entablar conversaciones intensas acerca de por qué esa tarea en particular debería acarrear un peso tan arduo y complejo de sobrellevar.

Pasadas experiencias con este tipo de *momentos del otro lado* me llevaron a comunicarles a los estudiantes en el proyecto con Latinos Unidos que deseaba que ellos realizaran entrevistas directamente con inmigrantes al comienzo del semestre de manera que al menos pudiésemos atrevernos a enraizar y fundamentar nuestras investigaciones partiendo y siendo fieles a un perspectiva basada esencialmente en la experiencia del inmigrante como actor principal. Sin embargo, encontrar un camino propicio de conexión con los inmigrantes indocumentados para conversaciones de par en par abiertas conlleva desafíos especiales aún más allá de los predecibles, los cuales enfrentaron en su momento Helen y mis estudiantes quiénes intentaron lo mismo allá por 1997. Demás está decir que las consabidas barreras del lenguaje, las marcadas diferencias culturales, y la vívida fragilidad que conlleva el estatus de *indocumentado* no son pequeños impedimentos a sortear.

Un estudiante involucrado con el proyecto de Latinos Unidos acertadamente me recordaba que yo no debería tomar estos impedimentos a la ligera, ni siquiera en forma inconsciente:

El Coordinador del proyecto debe trazarse un objetivo realista y poseer un sentido de comunidad y de la gente con las que sus estudiantes, de hecho, trabajarán. Esperar entrevistas inmediatas con los inmigrantes, aún cuando son aconsejadas por los líderes comunales no es para nada una expectativa viable dadas las normas culturales y sociales. También, cuando se trabaja con gente que vienen de tan diferentes países con conceptos de tiempo, familia, y hasta de privacidad diferentes los estudiantes tienen que ser prudentemente alertados de antemano por el Coordinador, y sobre todo debe saber muy clara y responsablemente a qué atenerse.

Tomé puntillosa y cartesianamente en cuenta este sano consejo. Más aún, hasta estoy pensando en el presente caminos alternativos que puedan permitirles a los estudiantes estar munidos de una ayuda más concreta al momento de mandarlos por las suyas poco menos que a pelarse la frente con el 'momento del otro lado'.

Por otro lado, también he recibido devoluciones de estudiantes quienes han sido lo suficientemente afortunados de encontrarse que las divisiones sociales pueden llegar a ser -algunas veces- por lejos menos embarazosas de cruzar de las que uno imagina. Más abajo, por ejemplo, vemos un e-mail que recibí de un estudiante en mi cátedra sobre discriminación (clase que comúnmente no incluye trabajo de campo). Recientemente, habiendo completado una unidad sobre asuntos que comprenden a los Latinos en este tipo de clases he invitado a cualquier estudiante que estuviese francamente interesado en venir a la catedral Católica a ayudar a darle una cálida bienvenida a gente que viaja a través del Estado de Tennessee en el día del Viaje de la Libertad del Trabajador Inmigrante. He aquí el e-mail del estudiante que aceptó mi invitación:

Me gustaría mucho, en cuanto tengamos tiempo, discutir con Ud. mis impresiones acerca del evento del Viaje de la Libertad. Entiendo que ha creado en mí una apreciación mucho más consistente acerca de los asuntos de los inmigrantes. De hecho esta tarde en mi trabajo me tomé el descanso para ir a comer. Cuando estaba en el deli, había allí un hombre de origen Latino sentado a mi lado. Le sonreí, y el me devolvió la sonrisa, y luego me preguntó si yo era Latino. Innumerables veces ya me habían preguntado lo mismo, gente que se hace esta idea por los rasgos de mi complexión. Le dije que no, pero me senté a su lado y le hablé animadamente mientras esperaba por mi comida.

Él trabaja en la construcción en el área de Knoxville y ha vivido aquí por casi 8 años. Tiene dos hijos en Veracruz, México, uno de 5 y uno de 2 años y medio al que, créase o no, no ha visto nunca. A medida que hablaba lo iba invadiendo una profunda emoción, y puedo decir con certeza que realmente extraña y ama a su familia. Luego que terminamos de conversar, me dijo que de verdad fué gratificante haber podido hablar de su familia y mencionó varios asuntos más respecto del hecho de estar en este país. Puedo afirmar que este simple episodio me he hecho sentir muy bien conmigo mismo. De no haber sido por mi participación en ambas clases y por el evento del Viaje de la Libertad, no creo que jamás hubiera podido apreciar, en su justa dimensión humana, mi conversación con aquel trabajador Latino.

Law Student Field Projects in Community Law

Teaching and Learning Portfolio

PERMANENT COLLECTION

TEMPORARY COLLECTION

MAIN MENU

project story

collaborator perspectives

student reflections

artifacts+images

teacher's comments

resources

Recursos relacionados: Inmigrantes en Tennessee y el Sistema de Justicia Penal.

Así como la mayoría de los visitantes de esta página muy probablemente sepan, tanto la literatura sobre inmigración internacional como la literatura que versa sobre Derecho Penal son indudablemente numerosas. Del mismo modo, un gran abanico de organizaciones se encuentra trabajando a los efectos de confrontar estos asuntos tanto a nivel local, nacional como internacional.



Concurrentemente, esta lista no intenta proveer una sistematizada representación técnica de la dinámica y rápida expansión de la suma de trabajos serios sobre estos tópicos. Por el contrario, apunta a proveer a los visitantes online que posean un genuino interés por los temas expuestos precisamente en las intersecciones que derivan de estos acontecimientos como por ejemplo, por nombrar solo algunas, entre inmigración y Derecho Penal, entre las comunidades de inmigrantes y las fuerzas de seguridad locales, etc., exponiendo así algunos puntos de partida como para comenzar a explorar seriamente estos tópicos más en profundidad desde las perspectivas tanto de las organizaciones de base como la de los militantes y académicos. El conjunto de citaciones son focalizadas a nivel nacional pero la lista comienza con una compilación de recursos centrada más específicamente en personalidades del Estado de Tennessee y culmina con algunas sugerencias mas focalizadas en el plano internacional.

La lista fue desarrollada a partir de recursos primeramente identificados por tres estudiantes de Derecho quiénes a su vez llevaron adelante este proyecto y que fuera luego substancialmente ampliada por Spring Miller en el verano de 2004 y que se encuentra de alguna manera abrochada a ítems disponibles online.

Domicilios adicionales de URL se encuentran disponibles toda vez que así nos fue materialmente posible. El estilo de citación es de un formato híbrido fuertemente influenciado por citaciones de carácter eminentemente jurídico, pero llamado a ser también accesible para aquellos lectores que se encuentran fuera del ámbito académico y quiénes pueden de éste modo obtener información precisa, a pesar que no siempre dispondremos, como quisiéramos, de la pertinente información en la secuencia o formato ideal para lectores menos familiarizados con temas jurídicos. Concomitantemente, para citaciones de artículos periodísticos el número que precede al nombre del periódico indica el volumen. Ejemplar número y las referencias de página aparecen luego del nombre del periódico.

I. Inmigrantes y el Sistema de Justicia Penal -- Tennessee

A. Publicaciones

B. Organizaciones y Proyectos en Tennessee

C. Oficinas Específicas de Gobierno y Agencias en Tennessee

II. Inmigrantes y el Sistema de Justicia Penal -- Estados Unidos.

A. Publicaciones

B. Organizaciones y Proyectos de Estados Unidos por fuera del territorio de Tennessee

III. Inmigrantes y el Sistema de Justicia Penal -- Recursos Internacionales

A. Publicaciones

B. Organizaciones Transnacionales e Internacionales - Proyectos

C. Convenciones Internacionales, Tratados, etc.

I. Inmigrantes y el Sistema de Justicia Penal -- Tennessee

A. Publicaciones

Dan Cornfield, principal investigador, *Evaluación de la Comunidad de Inmigrantes*, preparado por el Gobierno Metropolitano de Nashville y el Condado de Davidson, Tennessee. (Agosto, 2003)

<ftp://ftp.nashville.gov/web/finance/immigrant-community-assessment-nashville.pdf>

Spring Miller, "[Latino Immigrants in Tennessee: A Survey of Demographic Statistics and Social Science Research](#)," preparado por la Profesora Fran Ansley, Escuela de Derecho de la Universidad de Tennessee. (Junio, 2004)

"Defendant and Family Handbook." Provisto por la Oficina del Defensor Público de Nashville, 1202 Edificio Stahlman, Nashville, TN 37201.

"Manual de informacion importante para el acusado y su familia." Provisto por la Oficina del Defensor Público de Nashville, 1202 Edificio Stahlman, Nashville, TN 37201.

B. Organizaciones y Proyectos de Tennessee

Unión de las Libertades Civiles Americanas (ACLU) de Tennessee, Nashville

<http://www.aclu-tn.org>

"La Unión de las Libertades Civiles Americanas de Tennessee (ACLU-TN) se encuentra dedicada a traducir en hechos concretos las garantías de los derechos civiles expresadas en la Carta de Derechos Humanos para todos los habitantes de Tennesse"

Conexión Americas
Nashville

<http://www.conamericas.com>

"Conexión Americas es la primer organización sin fines de lucro que asiste a la comunidad Hispana en el Centro de

Tennessee en un sentido racional. Nuestra organización se encuentra asistida por un personal profesional Latino Americano perfectamente bilingüe y bicultural. Nuestra misión es ayudar a las familias Hispanas a comprender y llevar a cabo exitosamente las aspiraciones que contemplen logros a nivel socioeconómico a través de una integración social, económica y cívica en la comunidad del Centro de Tennessee."

Ciudadanos por Monitoreo de la Conducta Policial
Knoxville

<http://www.kornnet.org/cpr/>

"CPR ha sido creada para promover mayor participación democrática en asuntos que afecten directamente nuestras vidas; para promover, facilitar, e implementar auto-determinación comunitaria y para buscar un rol de responsabilidad civil en cuanto a las fuerzas policiales locales. CPR monitorea y documenta quejas locales y problemas de conducta policial. "

Centro de Educación e Investigación Highlander

<http://www.hrec.org>

"El objetivo de Highlander ha sido y es el de proveer educación y apoyo a gente pobre y trabajadores en general en su lucha por la superación de injusticias económicas, pobreza, prejuicios, y la destrucción del medio ambiente. Ayudamos a los líderes populares a crear las herramientas necesarias para construir movimientos de base masivos, para cambios sociales."

Latino Memphis

<http://www.latinomemphis.org>

"Latino Memphis es una organización militante sin fines de lucro que promueve el mejoramiento y bienestar de la comunidad Latina en Memphis y la zona Centro del Sur."

Latinos Unidos

<http://www.southernempowerment.org/>

Organización dedicada al fortalecimiento de las comunidades Latinas de inmigrantes en el Este de Tennessee.

Comunidad Somalí - Centro

Nashville

<http://www.somalinashville.org/>

"Somos una organización de base sin fines de lucro creada a los efectos de facilitar la transición de los Somalíes y otros refugiados de origen Africano en su deseo de vivir en Nashville y en una franja más amplia de la gran comunidad Americana."

Servicios Legales del Sur para Inmigrantes

Un Proyecto de Texas Río Grande Legal Aid, Inc.

Oficina Nashville

<http://www.trla.org>

"Texas Río Grande Legal Aid, Inc. provee servicios legales para residentes indigentes en las áreas del Sur y Oeste de Texas y para campesinos y trabajadores por temporada e inmigrantes a través de Texas, Alabama, Arkansas, Kentucky, Louisiana, Mississippi, y Tennessee."

Coalición por los Derechos de los Refugiados e Inmigrantes de Tennessee (TIRRC)

<http://www.tnimmigrant.org>

" La Coalición por los Derechos de los Refugiados e Inmigrantes de Tennessee se encuentra establecida a nivel estatal, persigue la colaboración de y por los derechos de los refugiados e inmigrantes, y su misión concreta es la de fortalecer a estas personas a lo largo y ancho del Estado de Tennessee en su noble intento por desarrollar una voz unificada creando una atmósfera en la cual tanto refugiados como inmigrantes sean vistos como contribuyentes positivos para el Estado."

C. Oficinas y Agencias Específicas del Gobierno en Tennessee

Oficina del Ministro de Justicia

<http://www.attorneygeneral.state.tn.us/>

Consejo de Jueces de la Corte Juvenil y Familia de Tennessee

<http://www.state.tn.us/tcjfcj/>

Departamento de Seguridad de Tennessee

<http://www.tennessee.gov/safety/>

Departamento de Correcciones de Tennessee

<http://www.state.tn.us/correction/>

Instituto de Lengua Extranjera de Tennessee

<http://www.foreignlanguages.org/>

Patrulla de Caminos de Tennessee

<http://www.tennessee.gov/safety/thp.htm>

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II. Sistema de Justicia Penal e Inmigrantes -- Estados Unidos. En General

A. Publicaciones

Stuart Anderson, "The Multiplier Effect,"un estudio de la Fundación Nacional de Políticas Americanas, Washington DC (2004)

<http://www.nfap.net/>

Centro de Investigaciones Aplicadas. *Reasserting Justice*. Manual del activista. (May 2003)

<http://www.arc.org/content/view/245/36/>

Anannya Bhattacharjee, "Whose Safety? Women of Color and the Violence of Law Enforcement,"un Documento sobre las Visiones de la Justicia publicado por el Comité y Servicio de los Amigos Americanos (2001)
<http://www.afsc.org/community/WhoseSafety.pdf>

Kevin Johnson, "The End of 'Civil Rights' as We Know It? Immigration and Civil Rights in the New Millennium," 49 UCLA Law Review (no.5) pp. 1482-1511 (June 2002)

Forum Nacional Inmigratorio, "The CLEAR Act and Homeland Security Enhancement Act: Dangerous Public Policy According to Police, Governments, Opinion Leaders and Communities." (April 2004)
<http://www.immigrationforum.org/currentissues/articles/CLEARHSEAQuotes.pdf>

Symposium: Migration Regulation Goes Local: the Role of States in U.S. Immigration Policy. 58 New York University Annual Survey of American Law (i3) pp. 283-407 (Summer 2002)
<http://www.nyu.edu/pubs/annualsurvey/html/issue.php?issueID=4>

Demetrios G. Papademetriou y Muzaffar Chishti, "Authority of State and Local Police Officers to Arrest Aliens Suspected of Civil Infractions of Federal Immigration Law." Migration Policy Institute (June 11, 2002)
<http://www.migrationpolicy.org/files/authority.pdf>

Melinda Smith, "Criminal Defense Attorneys and Noncitizen Clients: Understanding Immigrants, Basic Immigration Law and How Recent Changes in Those Laws May Affect Your Criminal Cases." 33 Akron Law Review (no 1) pp. 163-207 (1999)

Rebecca Smith y Amy Sugimori , *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*. Proyecto de los Trabajadores Inmigrantes del Centro de la Leyes Nacionales de Empleo. (Revistado, Noviembre, 2003)
http://www.nelp.org/iwp/reform/state/low_pay_high_risk.cfm

Andrew Sum, Neeta Fogg, Ishwar Khatiwada, Sheila Palma, *Foreign Immigration and the Labor Force of the U.S.: the Contributions of New Foreign Immigration to the Growth of the Nation's Labor Force and Its Employed Population, 2000. to 2004*. Centros de Estudios del Mercado de Trabajo, Northeastern University, Boston, Massachussets. (Julio, 2004)
http://www.nupr.neu.edu/7-04/immigrant_04.pdf

Norton Tooby, *Criminal Defense of Immigrants* . 3rd edition. Oakland, CA: Oficinas de Asuntos Legales de Norton Tooby (2003).

Manuel D. Vargas and Marianne Yang, *Representing Noncitizen Criminal Defendants in New York State*. 3 rd edition Distribuido por la Asociación de Abogados Defensores del Estado de Nueva York, 194 Washington Ave, Suite 500 Albany, NY (2003).

Deborah Weissman, "Between Principles and Practice: the Need for Certified Court Interpreters in North Carolina." 78 North Carolina Law Review (no. 6) pp. 1899-1964 (2000)

B. U.S. Proyectos y Organizaciones por fuera del territorio de Tennessee.

Unión de las Libertades Civiles Americanas (ACLU), Proyecto de Derechos de Inmigrantes
<http://www.aclu.org/ImmigrantsRights/ImmigrantsRightslist.cfm?c=96>

"El Proyecto de Derechos de Inmigrantes (IRP) de la Unión de las Libertades Civiles Americanas trabaja para defender los derechos civiles y constitucionales de los inmigrantes a través de un programa racional a propósito del impacto provocado tanto en la educación pública como aquellos ocurridos por litigio."

Comité de Servicio de los Amigos Americanos - Programa de Derechos de Inmigrantes, Proyecto Voz
<http://www.afsc.org/immigrants-rights/default.htm>

"El Comité de Servicio de los Amigos Americanos es una expresión práctica de fe de la Sociedad de Amigos Religiosos (Quakers). A través del servicio a nivel local y los programas de apoyo, y a través de su Iniciativa del Proyecto Voz, el AFSC trabaja para promover los derechos de los inmigrantes y fortalecer las voces de las comunidades de inmigrantes en discusiones a propósito de las políticas a llevarse a cabo."

Asociación Americana de Abogados de Inmigración (AILA)
<http://www.aila.org>

" La Asociación Americana de Abogados de Inmigración (AILA) es una asociación nacional de más de 8,000 abogados y profesores de Derecho quienes ejercen y enseñan Leyes de Inmigración. AILA es una organización no-partidaria, sin fines de lucro que provee a sus miembros programas de educación legal permanente, información, servicios profesionales, y vasta experiencia a través de sus 35 centros y más de 50 comités nacionales."

Centro de Investigaciones Aplicadas
<http://www.arc.org>

"El Centro de Investigaciones Aplicadas es un instituto educativo, de políticas públicas e investigación cuyo trabajo enfatiza asuntos de raza y cambios sociales. "

Centro de Estudios Inmigratorios
<http://www.cis.org/>

"El Centro de Estudios Inmigratorios es una organización independiente, no-partidaria, sin fines de lucro fundada en 1985. Es la misión del Centro expandir la base del conocimiento público y una mayor comprensión de la necesidad de una política inmigratoria cuya principal razón radique primeramente en el interés nacional en general. El Centro sostiene una visión animada que parte de un concepto de baja inmigración. Aunque siendo pro-inmigrante a su vez brinda una calida bienvenida solo a aquellos admitidos. "

Ciudadanos e Inmigrantes por una Justicia Equitativa
<http://www.ciej.org>

"CIEJ es una coalición de familias residentes Americanas/Legales en permanente lucha debido al acta de separación estipulado en las Actas de Inmigración AEDPA, e IIRIRA, de 1996. "

Red de Monitoreo de Detención
<http://www.lirs.org/What/partners/DWN.htm>

"La *Red de Monitoreo de Detención* fue fundada en 1997 en respuesta al rápido crecimiento del Sistema de Detención Inmigratorio... [Sus] miembros se preocupan por el vasto aumento en el número de peticionantes de asilo e inmigrantes que están sujetos a detención y que carecen de la protección de sus derechos en el caso de quedar detenidos."

Federación para la Reforma Inmigratoria Americana

<http://www.fairus.org>

"La *Federación para la Reforma Inmigratoria Americana (FAIR)* es una organización nacional, sin fines de lucro, de interés público y de afiliación de ciudadanos consustanciados y unidos por principios que apuntan a la necesidad de consumir reformas inmigratorias. Fundada en 1979, FAIR cree que los Estados Unidos pueden y deben tener una política inmigratoria que sea en esencia no-discriminatoria y diseñada para servir las necesidades ambientales, económicas, y sociales de nuestro país. FAIR busca maximizar la seguridad de frontera, poner fin a la inmigración ilegal, y promover niveles inmigratorios en consonancia con los intereses nacionales, más tradicionalmente en el rango de los aproximadamente 300,000 al año."

Amigos de la Aplicación de las Leyes de Inmigración (FILE)

<http://www.fileus.com>

" *Amigos de la Aplicación de las Leyes de Inmigración (FILE)* es una asociación de abogados, investigadores, oficiales de las fuerzas del orden, legisladores, y otros expertos que trabajan para que los ciudadanos Americanos estén seguros de la correcta aplicación de las leyes de inmigración. FILE asiste en las quejas y en casos legales con ayuda a ciudadanos Americanos que han sido dañados debido al fracaso en la aplicación de la leyes de inmigración de nuestro gobierno."

Consejo Nacional La Raza

<http://www.nclr.org>

"El Consejo Nacional La Raza -la organización nacional mas grande Hispana a nivel de distrito electoral y portavoz de la comunidad Hispana en Washington, DC- es una organización privada, sin fines de lucro, no-partidaria, exenta de impuestos, llamada a reducir pobreza y discriminación y expandir oportunidades para los Americanos de origen Hispano."

Proyecto Nacional del Derecho a Empleo (NELP)

<http://www.nelp.org>

"El *Proyecto Nacional del Derecho a Empleo (NELP)* ha luchado por mas de 30 años por los derechos de los trabajadores de medianos recursos, por los pobres y desocupados y otros grupos que se enfrentan a barreras significativas de distinta índole en la búsqueda de empleo y los sistemas gubernamentales de apoyo."

Foro Nacional Inmigratorio

<http://www.immigrationforum.org>

"La misión del *Foro Nacional Inmigratorio* es la abrazar y sostener la tradición de América en tanto nación de inmigrantes. El *Forum* promueve y construye el apoyo de políticas públicas que den una clara bienvenida a refugiados e inmigrantes como claro soporte inicial a los recién llegados a los Estados Unidos."

Banco de Recursos Comunitarios del Forum Inmigratorio

<http://www.communityresourcebank.org>

Una colección de recursos relacionados a temas inmigratorios en el nivel local de especialistas y proveedores de servicios. Incluye rápido acceso a estadísticas de censos, ejemplos de campañas exitosas de especialistas locales, y contacto e información para aquellos que practican leyes de inmigración a nivel local a través de todo el país

Centro Nacional de Ley de Inmigración (NILC)

<http://www.nilc.org>

"El *Centro Nacional de Ley de Inmigración (NILC)* es un centro nacional de apoyo cuya misión es brindar protección y promover derechos y oportunidades de inmigrantes de bajos ingresos y sus familias. El staff de NILC se especializa en leyes de inmigración, y en los derechos a empleo y beneficios públicos de los inmigrantes."

Pagina Web del Centro Nacional de Ley de Inmigración sobre Políticas Estatales respecto de la Licencia de Conducir para Inmigrantes

<http://www.nilc.org/immspbs/DLs/index.htm>

Articulos e información respecto del acceso a licencias de conducir para inmigrantes .

Proyecto Nacional Inmigratorio del Gremio Nacional de Abogados

<http://www.nationalimmigrationproject.org/>

"El *Proyecto Nacional Inmigratorio* es una fuente de información progresista y de apoyo legal sobre derechos del inmigrante. Nosotros somos uno de los pocos grupos a nivel nacional que se especializa en la defensa de los derechos de inmigrantes bajo especificas circunstancias de encarcelamiento y deportación."

Red Nacional por los Derechos de los Refugiados e Inmigrantes

<http://www.nnirr.org>

"La Red Nacional por los Derechos de los Refugiados e Inmigrantes (NNIRR) es una organización nacional compuesta por coaliciones locales y de organizaciones del trabajo de y por los inmigrantes, refugiados, comunidad, grupos religiosos y de derechos civiles y activistas. Sirve principalmente como foro que facilita compartir información y análisis, educar comunidades y público en general, y desarrollar y coordinar planes de acción sobre asuntos importantes de inmigración y refugiados."

[Retorno al tope de la página](#)

III. Inmigrantes y el Sistema Local de Justicia Penal -- Recursos Internacionales

A. Publicaciones

Paul Amar and Cathy Schneider, "Cops: The Rise of Crime, Disorder, and Authoritarian Policing." NACLA Report on the Americas. September/October 2003.

http://www.nacla.org/issue_disp.php?iss=37|2

Anne James and Mark Warren, "Equal Protection: Consular Assistance and Criminal Justice Procedures in the U.S.A.: An Introductory Guide for Consulates." published by the International Justice Project and Human Rights Research. (July 2003)

<http://www.internationaljusticeproject.org/pdfs/VCCRguide.pdf>

B. Proyectos y Organizaciones Transnacionales e Internacionales

Amnistía Internacional

<http://www.amnesty.org/>

" *La misión de*AI es la de realizar investigaciones y acciones tendientes a prevenir y poner fin a graves abusos de derechos que afecten la integridad física y mental, la libertad y expresión de consciencia, la libertad plena de toda forma de discriminación. Dentro del contexto de su trabajo está el de promover plenos de derechos humanos . "

18 de Diciembre: Portal por la Promoción y Protección de los Derechos de los Migrantes

<http://www.december18.net/web/general/start.php>

" *18 DE DICIEMBRE es una organización online así llamada luego del Día de Solidaridad Internacional para con los Migrantes, iniciada en 1997 por organizaciones de migrantes Asiáticos. Fue un 18 de Diciembre de 1990 que la Convención Internacional sobre la Protección de los Derechos de Todos los Migrantes Trabajadores y Miembros de Sus Familias fue aprobada por la Asamblea General de las Naciones Unidas. La misión del portal 18 de Diciembre es la de promover y proteger los derechos de los migrantes con dignidad y respeto por los valores básicos. Nuestro objetivo es el de apoyar el trabajo de las organizaciones de migrantes de diferentes regiones mediante el uso de Internet como herramienta militante, la diseminación de información y contacto de redes.*"

Homies Unidos

<http://www.homiesunidos.org/>

"Homies Unidos es una organización de prevención e intervención sobre violencia de pandillas sin fines de lucro con proyectos en San Salvador, El Salvador y Los Ángeles, California. La organización fue fundada en 1996 en San Salvador y comenzó formalmente a organizarse en los Estados Unidos en 1997. Durante nuestro breve periodo, el área de concentración principal de Homies Unidos se ha expandido desde intervenciones en crisis y red de apoyo de familias afectadas por pandillas transnacionales hasta llegar a un programa estratégico, de acción directa."

Proyecto de Justicia Internacional

<http://www.internationaljusticeproject.org/overview.cfm>

"*El Proyecto de Justicia Internacional trabaja en pos del desarrollo, coordinación y aumento en la aplicación de estándares de Derecho Internacional y de Derechos Humanos referidos a la pena capital.*"

Organización Internacional del Trabajo

<http://www.ilo.org/>

"*La Organización Internacional del Trabajo es la agencia especializada de las Naciones Unidas, UN, la cual busca promover justicia social y los derechos humanos y laborales reconocidos internacionalmente. La ILO formula estándares a nivel de trabajo internacionales en la forma de Convenciones y Recomendaciones estableciendo así estándares mínimos de Derechos del Trabajo: libertad de asociación, derecho a organizarse, convenios colectivos de trabajo, abolición del trabajo forzado o esclavo, igualdad de oportunidades y trato humano, y otros estándares que regulan las condiciones a través del espectro global relacionados a asuntos del trabajo.*"

Conferencia Regional sobre Migración

<http://www.rcmvs.org/>

"*Foro intergubernamental que incluye once países en Norte y Centro América dedicado a intercambiar información y alentar el diálogo sobre migración.*"

Comisión de Derechos Humanos de las Naciones Unidas, Reportero Especial sobre Derechos Humanos de los Migrantes

<http://www.ohchr.org/english/issues/migration/rapporteur/>

"El mandato del Reportero Especial sobre Derechos Humanos de los Migrantes fue creado en 1999 por la Comisión de Derechos Humanos, sujeta a resolución 1999/44. La Comisión requirió al Reportero Especial que 'examine vías y medios que sirvan para superar los obstáculos existentes en la protección efectiva y total de los derechos humanos de los migrantes, incluyendo aquellos obstáculos y dificultades inherentes al retorno de migrantes indocumentados o que se encuentran bajo situación irregular'."

Comité de las Naciones Unidas en la Protección de los Derechos de Todos los Migrantes Trabajadores y Miembros de Sus Familias.

<http://www.ohchr.org/english/bodies/cmw/>

Monitorea la Convención Internacional sobre Protección de los Derechos de Todos los Migrantes Trabajadores y Miembros de Sus Familias

C.Convenciones Internacionales, Tratados, etc

Sintetiza la Convención de las Naciones Unidas de1990 sobre Protección de los Derechos de Todos los Migrantes Trabajadores y Miembros de Sus Familias.

<http://www.ohchr.org/english/law/cmw.htm>

Convención de Viena de 1963 sobre Relaciones Consulares y Protocolos Opcionales

<http://www.un.org/law/ilc/texts/consul.htm>

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Law Student Pledge of Confidentiality

As a student who is about to embark on a community field project that may bring me into contact with vulnerable populations (such as minors, persons with limited educational backgrounds, undocumented immigrants, low-wage workers, children with special needs, and other members of marginalized or disempowered communities), I recognize that my work may result in my learning information about individuals that they would want and expect me to hold in confidence.

I am also aware that Professor Ansley is engaged in an on-going research project to study her teaching and her students' learning, in the context of law-related community fieldwork. I know there are special rules governing the confidentiality of information she may learn on her own or through me in the course of this research project, and I have been given an opportunity to review the procedures that she is obligated to follow in the conduct of that research.

In addition, as a law student and future attorney, I appreciate the special importance of confidentiality in relationships of trust such as those that may arise in the course of my project. I am aware that members of the community are likely to assume that I will be especially respectful of confidentiality because I am a law student preparing for a profession that treats confidentiality with great seriousness.

For all the foregoing reasons I pledge to maintain the confidentiality of information I gain about persons I work with in the course of my field work in this class: (a) when the circumstances indicate that such confidentiality is reasonably expected by the person in question, or (b) when confidentiality and various steps to protect it are required by the spirit or letter of Professor Ansley's research protocol, or (c) when a failure to maintain such confidentiality is likely to pose an unreasonable risk of harm to the person in question.

Printed Name of Student: _____

Signature: _____ Date: _____

Some Notes on Research Involving Human Subjects

Similarly to attorneys and other professionals, researchers are guided or bound in various ways by ethical codes, both moral and legal. For instance, research involving “human subjects,” if it is conducted by someone at a university that receives federal funds, is legally governed by the National Research Act and by regulations promulgated pursuant to that statute by the Department of Health & Human Services. (These regulations are published in Volume 45 of the Code of Federal Regulation, 45 CFR 46, and may also be viewed on the University’s Office of Research web site.) As explained on the web site, the roots of these rules about human subjects research lie in the Holocaust:

Scientific research has produced substantial social benefits. It has also posed some troubling ethical questions. Public attention was drawn to these questions by reported abuses of human subjects in biomedical experiments, especially during the Second World War. During the Nuremberg War Crime Trials, the Nuremberg Code was drafted as a set of standards for judging physicians and scientists who had conducted biomedical experiments on concentration camp prisoners. This code became the prototype of many later codes intended to assure that research involving human subjects would be carried out in an ethical manner.

The National Research Act eventually led to the production of something called the “Belmont Report.” Again from the UTK web site,

On July 12, 1974, the National Research Act (Pub. L. 93-348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to identify the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and to develop guidelines. . . . The Belmont Report attempts to summarize the basic ethical principles identified by the Commission in the course of its deliberations.

Although biomedical and behavioral research are the “paradigm cases” of research endeavors likely to trigger concerns about abuse of human beings, there are many other kinds of research now governed by these rules, and many kinds of risks besides physical ones that researchers are obliged to take into account. Before engaging in research, the researcher is supposed to envision and carefully attempt to weigh the anticipated risks and benefits of the research, fully inform the subjects about the nature and purpose of the research, and avoid the imposition of unnecessary or unreasonable risks. Research projects must be approved through established procedures.

Our activities in this course are not likely to rise to the level of the “systematic investigation” and public dissemination contemplated by the primary rules on human subjects. Nevertheless, in many instances we intend to be listening to and learning from human subjects. Some people from whom we gather information could possibly be harmed if information they provide in confidence were to be made public against their wishes. Other kinds of risks may arise as well, in special circumstances. I therefore think it is important that we bear in mind some of the ethical principles that apply in the research context. Attached are some excerpts from the Belmont Report, introducing the basic ethical principles of “respect for persons,” “beneficence,” and “justice.” You may view the Belmont Report in its entirety at the following address:

<http://helix.nih.gov:8001/ohsr/mpa/belmont.phtml#xethical>.

Alternatively, you may follow the trail on UTK’s own Office of Research web site.

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b. Confidentiality in the context of research involving human subjects (cont'd)

(2) Law students and community collaborators as human subjects of the professor's research

In any event, there is another wrinkle in my case, given that I am carrying out an on-going study of my own use of field projects as a teaching method. No matter what else may transpire in the community, the students themselves are caught up as human subjects of research about my methods. At least since I have begun a more disciplined study of my own use of field placements, the students in these courses are therefore positioned in an interesting way. They are simultaneously asked to think about themselves as guardians of information gained through their own community listening and investigation, and they are also reminded that they are one of the important human sources of information I am targeting in my own research.

In the context of the scholarship of teaching and learning, there are serious debates and conversations underway about the applicability of human subjects protocols, with some scholars pushing for relaxation of burdensome procedures for projects in which teachers are studying their own practice. I have concluded that my own project – which involves information gathered in my classrooms, but also in the community – does indeed fall within the scope of my university's rules about human subjects.

It is impracticable, however, to submit an application tailored to each semester's different work, because the approval process grinds too slowly to allow that. So I designed an application for a project that would remain open for several years, allowing me to study my fieldwork as a teaching method during that extended time frame, and describing the effort in broad enough terms to allow some future evolution in light of changed circumstances. It received approval, and now covers the research that is feeding into this web site.

Among the forms proposed and approved by that process was a Confidentiality Pledge in which my law students agree to guard confidences they receive in the course of their fieldwork, and Invitation and Consent forms that describe my study, explain how I expect to use and handle information I receive, and ask recipients to consent or decline to participate. (There are four different forms, aimed respectively at (1) law students, (2) other adult participants, (3) minor participants, and (3) the parents or guardians of minor participants.)

In the past I have used various kinds of materials to introduce these questions. Since receiving approval of my Application from the university, I have been teaching from the Application itself, the related approvals, and the consent forms – one of which the students themselves are asked to consider signing, so that puts a decidedly experiential twist on the learning process.

Once I asked students to design their own consent forms, and it turned out to be an amazing exercise. We had talked beforehand about the need for genuinely informed consent, and about the importance of writing documents that could be read and understood by people without much formal education. Nevertheless, several of my students produced forms that contained vast swaths of turgid legalese and that also signed away virtually all the subject's rights. They had apparently gone to "form books" and then adapted what they found there. Despite a huge emphasis in my course on effective communication across educational difference, and on the importance of learner-centered methods of interaction in the community, when we turned to the creation of legal forms, some set of expectations about law talk took over the driver's seat. It was astonishing. For one example of what I mean (posted here with the good-natured permission of an excellent student who is glad for others to learn from her highly-instructive mistake), [click here](#).

To see my human subjects Application, [click here](#).

To see approval letter, [click here](#).

To see a discussion of my human subjects Application by a member of the review board, [click here](#).

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b. Confidentiality in the context of research involving human subjects (cont'd)

(3) Ambivalence and a cautionary note regarding human subjects in practice

My own attitude toward human subjects rules and procedures as they apply in the community is deeply ambivalent. On the one hand, I applaud the post-Nazi concern to protect vulnerable subjects of academic research from being exposed to unjustifiable risks. Certainly, I support the requirement that research subjects give their informed consent rather than serving as the unwitting instruments of someone else's plans. I also appreciate being able to show my students that even in the absence of a formal attorney-client relationship, there are standards that require their care and attention when it comes to the handling of information gleaned from vulnerable populations in the community.

On the other hand, it has become clear to me through practice that human subjects rules and regulations often get enforced and administered in a way that focuses more on protecting the university from liability than it does on protecting human subjects from overreaching, abuse, or simple misunderstanding. The very paperwork required by the rules is so extensive that it often produces non-comprehension and non-engagement by those it is supposed to protect. Under these conditions, it falls to the researcher to go yet another mile to overcome the barriers created by the paper, in order to assure real understanding.

I can offer an example from my own practice in this regard. I now have several semesters of experience working with a teacher at [Austin East High School](#) here in Knoxville. She has welcomed my students into her English classroom to work with her pupils on law-related subjects. We have been eager to document this process, and my students and I have hoped to feature work from our collaboration on this web site, or in other publications. The teacher, Mrs. Loretta Perkins, has worked each semester to obtain appropriate consents from the students and their teachers. Unfortunately, this is never an easy task. High school students are not high on paper management in any case, and many of the students at Austin East face particularly high hurdles in keeping track of forms when they are also dealing with after school jobs, families often characterized by high mobility and stress, and sometimes with children of their own.

Now that I have obtained approval for the elaborate consent forms required by human subjects rules, Mrs. Perkins and I have found our task more difficult than ever. Returns of these forms are spotty at best, unless we invest substantial effort. Even when the forms are returned, we end up with many minor's forms that have been signed by a parent and vice versa, or multiple instances where we get the parent's permission, but not the child's assent, or the reverse. Given the conditions under which young people and their families are attempting to shepherd these pieces of paper back to school within the deadlines we set, and given the blizzard of wordy and sometimes inexplicably repetitive forms, surely this could have been predicted.

One semester I succeeded in getting a higher rate of return by producing contact sheets of project photographs that I sent home with each student, and then rewarding each complete return of forms with a 5x7 glossy print of the student's choice. This did get a higher yield, but it was a huge amount of work as well, all during a time when law students had already exited to prepare for exams. There was no way to move the process up any earlier in the semester since we wanted to use photographs of the culminating performance event.

I have since dickered with the forms a bit to improve communication without having to go through a formal re-approval process, but it still appears that getting good returns will require time one-on-one with the young people, coupled with sustained follow-up. We will continue to experiment, but I think it is clear that this process will always be a struggle.

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