



Preparing Touro Law

GRADUATES

for the Practice of Law in a Changing Legal Landscape

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Legal education has become front page news. For the past few years, we have been barraged with mass media accounts of the crisis in legal education fueled by rising tuition, increased debt load, and a shrinking job market. From the *New York Times* to countless blogs, law schools have come under withering attack for producing more lawyers than the market can bear. More nuanced reports emphasize the

mismatch between unemployed lawyers and the vast unmet legal needs of the poor. Even President Obama entered the fray by suggesting that law schools be shortened to two years. The New York State Bar Association devoted the entire issue of its September 2013 Journal to “The Future of Legal Education and Admission to the Bar” with articles debating the economics of a legal education, proposing a national

job corps, and calling for reform of the bar exam. Whether or not one believes that current market forces require a radical reformation of legal education, one substantive aspect of the critique that deserves serious attention is the charge that law schools need to do more to prepare their students for the practice of law. That critique is one that Touro Law has been addressing for decades.

Touro Law Center: An Early Leader in Experiential Learning

Touro Law was one of the first law schools to take seriously the critique that skills training and professional values needed to be an integral part of the law school curriculum. We have long rejected the false dichotomy between theory and practice. Practice is informed by theory and vice versa. A deep understanding of doctrine is made possible when doctrine is applied to practice in an actual social context. A law school curriculum must integrate the knowledge, skills, and values that professionals require. Other professional schools understand this: medicine, veterinary, pharmacy, dentistry, social work, architecture, and nursing schools all have clinical educational requirements in their professional schools.¹ Only now is the accrediting agency for law schools contemplating requiring all students to satisfy a meaningful experiential component.²

The Touro Law faculty began re-

imagining legal education more than twenty years ago when Dean Howard Glickstein first proposed to move the school to Central Islip in order to create a unified legal campus alongside the state and federal courthouses, where legal education could be recreated along the lines of a medical school model. Drawing on the opportunities for experiential learning presented by our proximity to the two courthouses, Dean Glickstein asked the faculty to comprehensively examine the curriculum and assess whether we could do more to strengthen the relationship between theory and practice.

This was the era of the MacCrate Report, which served as a clarion call to the profession and to the academy in particular.³ The report commended schools for doing an excellent job teaching doctrine but urged them to examine ways in which they could also focus on the skills and values that are an inherent part of the practice of law. The



Touro Law Center's former main entrance in Huntington, NY.

faculty began an exhaustive self-assessment and generated multiple reports calling for a more coherent integration of practice skills into the curriculum. At each step of the process, we asked ourselves three questions: what do we want our students to have achieved upon graduation; does our curriculum provide the basis for our students to achieve those objectives; what innovations would better prepare our students for practice and for undertaking their roles as community leaders. We noted that while our curriculum offered many opportunities to introduce students to a variety of practice skills, the curriculum was not designed to ensure that students were exposed to these skills or that the skills were delivered in a coherent sequential manner. We thus introduced the concept of verticality, not just in our doctrinal offerings, but in our skills-based curriculum. By verticality, we meant a sequenced delivery of knowledge, skills and values that progresses each year in the difficulty and sophistication of the materials and tasks assigned.

As part of our process of self-evaluation, we organized the Milton Handler Conference on Curricular Reform in Legal Education, held at Touro Law Center in May 2001. We invited a number of distinguished academics, judges, and practitioners, including Bob MacCrate, Elliott Milstein (past-President of AALS), Judge Juanita Bing Newton (deputy chief administrative judge for justice initiatives) and Daniel Greenberg (Executive Director of the Legal Aid Society). In a series of panels, these speakers responded enthusiastically to our proposals to make justice more central to the law school curriculum and to better integrate practice skills throughout the curriculum.

As a result of the conference, the faculty

approved a number of pilot projects including a Justice course in the first year curriculum; the introduction of Practice Modules in the second year, and the addition of rotations in the US Attorney's Office and Nassau Suffolk Law Services to third and fourth year students.

Over time, some of these pilot projects became entrenched parts of our curriculum, some were revamped and replaced with other innovations. Our skills curriculum has grown exponentially in the last decade. We have enhanced the first year curriculum to ensure that basic skills including interviewing, negotiating, and counseling are included, both in an expanded Legal Process course and in the doctrinal courses, and we launched our unique court observation program, which not only places first semester students in the courts but also offers them opportunities to assist self-represented clients in uncontested divorce proceedings. We added an Intermediate Skills Requirement, which includes practice modules designed to assist students in developing oral and written lawyering skills in the context of law practice simulations. In order to qualify, the course must include at least a majority of the ten fundamental lawyering skills identified in the MacCrate report, employ simulations that engage each enrolled student; and include practice-related writings and oral presentations by each student. The number of these courses has multiplied over the years and includes Advanced Trial Practice; Introduction to NYS Court Practice: American Trial Courts; Drafting Commercial Documents; Environmental Crimes: Law & Practice; Current Legal Issues in Government; Interviewing, Negotiating and Counseling; Introduction to New York Court Practice:

The Justice Courts; Licensing in Intellectual Property; Pre-Trial Litigation; Settling Legal Disputes; and Trial Practice, as well as Practice Modules in Business Organizations; Criminal Procedure; Environmental Law; Family Law; Trusts & Estates; and International Sales Law & Arbitration.

We also expanded our already strong clinical offerings and externships and added clinics in subject areas representing pressing areas of need in our community. One example is our newest clinic – the Disaster Relief Clinic - which has received national attention and which serves as a prototype for clinics at other law schools. In this clinic, students learn basic lawyering skills essential to the practice of law while assisting clients who have been impacted by Hurricane Sandy. Under faculty supervision, students represent clients in real estate and land use matters, public benefits including FEMA claims, public utilities issues, insurance matters, employment issues, contractor and consumer issues as well as issues that have a



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1. Medical school requires 2 of 4 years in clinical practice or clerkships; veterinary school requires a minimum of 1 in 4 years in clinical settings; pharmacy requires 300 hours in the 1st year and 36 weeks in the last year in clinical settings; dentistry requires 57% of education in actual patient care; architecture requires 50 out of 160 credits in studio courses; nursing varies by state but some states require 1/3 clinical credits.

2. The Council of the Section of Legal Education is considering amending Standard 303 to require “one or more experiential course(s) totaling at least six credit hours. An experiential course or courses must be: (i) simulation course(s); or (ii) clinical course(s); or (iii) field placement(s). To satisfy this requirement, a course must be primarily experiential in nature and must: (i) integrate doctrine, theory, skills, and legal ethics and engage students in performance of one or more of the professional skills identified in Standard 302; (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.” The proposed changes are available at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/20130906_notice_comment_chs_1_3_4_s203b_s603d.authcheckdam.pdf

3. The MacCrate Report was named after Robert MacCrate who chaired the ABA Task Force that authored “Legal Education and Professional Development – An Educational Continuum,” 1992.

4. Among the IBLT's newest and planned programs, all of which will involve our students, are: an Entrepreneurship Assistance Fellowship, through which Touro Law students provide focused legal intelligence to local entrepreneurs seeking competitive advantages; an online library for businesspeople of audio, video and written information and links regarding law, regulation and best practices in privacy, social media, intellectual property, e-commerce and other rapidly evolving subject areas; collaboration with Accelerate Long Island, Stony Brook University, and other organizations on initiatives to encourage, support and measure economic development through entrepreneurship on Long Island; and on-site legal clinics at regional business incubators through which Touro Law students, under attorney supervision, will provide basic legal services to tenant startups.

broad impact on disaster recovery problems affecting a larger number of clients or public policies for disaster recovery or assistance.

The Disaster Clinic reflects the school's deep commitment to helping others in crisis. For example, in the wake of Hurricane Sandy, Touro established TLC-Heart, an immediate community service effort involving law students and volunteer attorneys. The experiential learning we have been providing to our own students has been expanded to a national scale, thanks to a grant from the Rauch Foundation. Touro Law Center is presently spearheading a nationwide program that benefits a large number of victims of Hurricane Sandy while simultaneously providing an enriching and fulfilling practical educational experience for law students across the country. Our TLC Heart Project Coordinator is matching law school volunteers from around the country with our own Disaster Relief Clinic and with other regional agencies already providing legal services to those in need. The program has created opportunities for nearly 150 law students from other law schools around the country (and from the United Kingdom) to visit Touro during spring and summer breaks from their respective law schools to represent victims of Hurricane Sandy with respect to legal issues related to insurance, FEMA, foreclosure, environmental matters, consumer debt, landlord-tenant, and employment.

Another new clinic also addresses pressing needs in the community. The Veterans' & Servicemembers' Rights Clinic trains students to assist veterans and active duty service members in matters in which military service has created special protections or created unique burdens. Clinic students work closely with the Suffolk County Veterans Court, a specialized part of the Suffolk County court system that helps veterans charged with criminal offenses by diverting them from the traditional criminal justice system and providing them with the tools they need to live productive lives, through treatment and judicial monitoring. Students also represent veterans in benefits claims, regaining employment after deployment, employment discrimination claims, obtaining accommodation for disabilities and discharge review and upgrade proceedings.

Our other new clinics reflect the economic

downturn that our region has experienced that has resulted in loss of jobs, countless foreclosures, and deep financial distress. Touro now has two clinics – the Mortgage Foreclosure and Bankruptcy Clinic and the Advanced Bankruptcy Clinic – which give students the opportunity to assist local residents facing mortgage foreclosure or personal bankruptcy. Students negotiate mortgage modifications, appear in New York State Supreme Court at mandatory foreclosure settlement conferences, research and draft litigation documents necessary for foreclosure defenses, assist in the preparation and filing of both Chapter 7 and Chapter 13 bankruptcy petitions, and appear at hearings in U.S. Bankruptcy Court. Students also interview and counsel clients, investigate facts, review financial records and negotiate on behalf of their clients.

Touro Law is one of only 18 law schools in the country that guarantees a clinical or externship experience to its students. The Curriculum Committee is currently working on a capstone requirement that would ensure that all Touro students benefit from our clinics and externships.

In addition to these new clinics, Touro offers several others: Family Law Clinic; Civil Rights Litigation Clinic; Elder Law Clinic; and Not-for-Profit Law Corporation Clinic, as well as externships in Criminal Law; Advanced Criminal Prosecution; Business & Technology Law; Civil Practice; Judicial Clerkship; and the U.S. Attorney. In addition, students enrolled in an upper level course may earn credit for an independent externship in a practice setting that relates to the subject matter of the course. We are currently in the process of expanding our externship offerings, including civil practice externships that correlate with our newly developed centers and institutes and

criminal practice externships in juvenile justice, specifically with Touro students participating in the opening of a Suffolk County Felony Youth Offender diversion court. Our collaborative relationship with the courts provides our students with unique opportunities to become part of newly created programs, even while those programs are still in the planning stages, such as the Felony Youth Offender Program and a Human Trafficking Program.

While Touro does not currently require students to take a clinic or externship, the overwhelming majority of our students do take advantage of these wonderful opportunities to learn by doing and Touro offers sufficient placements for all students to participate. Indeed, Touro Law is one of only 18 law schools in the country that guarantees a clinical or externship experience to its students. The Curriculum Committee is currently working on a capstone requirement that would ensure that all Touro students benefit from our clinics and externships.

As part of our experiential learning offerings, Touro is restructuring its advocacy programs, providing administrative and faculty support to the student organizations involved in all three types of practice: Alternative Dispute Resolution, Trial Advocacy, and Appellate Advocacy. Students will have the opportunity to try out for each of the three programs and, if selected, will compete in regional and national competitions. Additionally, students on competition teams

will be enrolled in an academic course designed specifically to address the subject matter of a particular competition, as rules permit. We also plan to involve alumni as coaches for our ADR, Moot Court, and Trial Competition teams. Our expectation is that Touro's new focus on advocacy will result in even more victories for our teams than we have already achieved.

Experiential learning is also a key ingredient in Touro's Centers for Innovation in Business, Law and Technology (IBLT). Touro's IBLT is designed to encourage and support economic development and entrepreneurship for Long Island's residents. Students enrolled in IBLT courses

All lawyers are educated. Our lawyers are prepared.

A majority of Touro Law students take advantage of the many clinics and externship programs offered.



or participating in IBLT externships develop an understanding of the legal issues integral to the technology-driven business communities of manufacturing, eCommerce and high tech.⁴

In addition to focusing on a coherent integration of skills, we also took heed of the MacCrate Report's emphasis on professional values. Indeed, our clinics and externships are focused not only on skills development and access to justice, but also on professionalism, on helping our students develop into lawyers with values that reflect our mission. Touro Law Center's mission has long reflected its Jewish affiliation which informs our vision of the lawyers we seek to produce. We defined our goal as follows:

Inspired by Jewish heritage and the Jewish legal tradition, Touro Law Center recognizes that its mission goes beyond that of most law schools. Touro Law Center's primary mission is to help men and women become good lawyers – lawyers who provide competent representation to clients, with attention to justice and the moral sources and goals of law and to the lawyer's responsibility to mediate between the public interest and the client's wants.

The good lawyer is respectful of human dignity, and is committed to social justice, fairness, equality, and other values of the professional community, including participating in public life and assisting under-served segments of the community. The good lawyer develops a professional

character that demands higher standards than apply to other occupations, making the profession of law a "calling". Those professional qualities include integrity, honesty, trustworthiness, compassion, and faithfulness. These skills and character traits are essential whether the good lawyer is advising corporations, making government policy, or representing the indigent.

We translated our commitment to these values by being among the first schools in the nation to require students to perform pro bono work as a condition of graduation. We recently increased our 40 hour requirement to 50 hours to reflect the new rule announced by Chief Judge Lippman that applies to all candidates for admission to the New York bar. While most other law schools needed to quickly mobilize to assist their students in satisfying this requirement, Touro had long had in place its system for helping students find suitable pro bono opportunities. Indeed, our Public Advocacy Center, the only one of its kind in any law school, provides countless opportunities for students to engage in meaningful pro bono work.

We also introduced a Justice course, which was originally intended to be a required part of the first year curriculum, but instead is a popular elective. In this course, students examine justice by applying broad moral, philosophical, and political principles to real cases and controversies.

Discussion topics include law and autonomy, race and justice, gender and justice, and economics and justice, as well as the scope of the criminal law and the role of justice in the international arena. The goal of the class is to construct guiding norms of justice and equity as they would be reflected in the laws that govern a model society.

Our commitment to social justice is reflected, not just in our curriculum, but in many other aspects of our program, including our annual Public Interest Practitioner-in-Residence Program, our summer public interest fellowships, our loan forgiveness program, and, most notably, our unique Public Advocacy Center (PAC) that houses public interest organizations working in areas such as domestic violence, health and welfare, housing, civil liberties, and student advocacy, including special education issues. The PAC offices provide a diverse range of experiences to our students from direct client practice to policy planning to community development. The PAC offers furnished offices to local non-profit agencies in exchange for their promise to use Touro students in their work. This is the ultimate win-win – unrepresented clients get much needed assistance and Touro students learn valuable skills while involved in meaningful pro bono work.

Our curriculum continues to be a work in progress, since self-evaluation is itself a valuable skill, both individually and institutionally. While always strong

on experiential learning, we continue to expand opportunities for students to learn in context, consistent with the best thinking in legal education as expressed by the Carnegie Report⁵ and Best Practices.⁶ This commitment is reflected in Dean Salkin's appointment of Myra Berman to serve as Dean of Experiential Learning. Dean Berman has worked to create opportunities for first year students to assist self-represented clients in uncontested divorce actions; she has worked with Lynne Kramer to expand our first year court observation program; and she has created upper level courses that are aimed at bridging the gap

between classroom theory and courtroom practice. In *American Trial Courts: Theory and Practice in the Federal Courts* and *American Trial Courts: Theory and Practice in the New York State Courts*, Dean Berman uses the courtroom as an educational laboratory where judges assist students in understanding the law in context and help evaluate students as they work on real problems developed from actual cases in litigation.

As we continue to assess our curriculum, we are particularly mindful of what changes are taking place in the profession and to what extent those developments can and should drive curricular changes.



Part-time student David Greenberger studies in the library.

Q. Given the shrinking pool of jobs, what can students best do to position themselves in the job market?

A. Touro's externship program is an excellent opportunity for students to be placed in law offices where they can receive hands-on training and prove themselves in a practice setting. My own law firm has hired Touro graduates based on their performance as externs in our office.

When we interview candidates for a position, all of whom have strong credentials, we look for the student who expresses a passion for the practice of law. The stand-out candidate is the one who is truly excited by the rule of law and client service.

Q. Are law firms engaged in as much training of new hires as in the past? Have those training programs changed?

A. Much of the training of associates that goes on at law firms continues to be hands-on learning under the supervision of senior attorneys. Work involving greater legal complexity is assigned as the associate attorney demonstrates that she has developed the skills necessary to handle more sophisticated work. Teaching, coaching and careful supervision of new attorneys is an on-going professional responsibility. In-firm training, even for those firms that are qualified as CLE providers, usually is supplemented by

other continuing legal education sources, including bar association presentations. Additionally, vendors that provide document management services, legal software programs and other types of legal support often furnish training in the use of their particular technologies. And of course, as the MacCrate Report emphasizes, the educational process does not end in law school or even in the fifth year or the tenth year of practice. For most good lawyers, legal education is a career-long responsibility and opportunity.

Changes in the Profession

In order to assess how the profession has changed and how, if at all, the law school curriculum should adapt to those changes, I had a series of conversations with Lois Schlissel, an active member of Touro's Board of Governors and the managing attorney at Meyer, Suozzi, English & Klein, P.C.

Q. How has the practice of law changed in recent years?

A. The profession is undergoing rapid innovation in several areas that impact the work of associate attorneys, including document management, e-discovery and legal research. There was a time in the not-too-distant past when newly-minted litigators would spend long days studying thousands of hard copy documents -- warehouses filled with paper records -- looking for relevant documents during the discovery phase of litigation. With the advent of electronic document management, the laborious task of document review is evolving into a more efficient and reliable process. Document organization and storage, and document searches are now accomplished electronically. Attorneys, together with legal support staff and specialized vendors, work collaboratively to design case-specific electronic search methods to identify potentially relevant evidence. These developing techniques, including predictive coding, are fast becoming accepted methods by which litigators can gather and use electronically stored information.

Legal research, too, has developed far beyond the methodologies of a decade ago. In addition to enhanced electronic

research methods available through providers like Westlaw and LEXIS, several internet research sites, such as Cornell's Legal Information Institute site, facilitate on-line research. Additionally, legal support vendors have created software that provides a wealth of searchable materials for specific practice areas, from trusts and estates to corporate finance and tax law.

Q. Do the changes that you describe vary with practice area or size of firm?

A. Generally speaking, I would say no. Small and mid-size firms have access to the benefits (and challenges) of these developments. However, some practice areas, like litigation, are impacted more directly and significantly by the technological evolution in the practice of law. All firms, regardless of size and practice area, need to embrace these changes if they are to provide their clients with high quality, efficient legal services and remain competitive in our changing professional environment.

Q. How do these technological changes impact clients?

A. Not only has technology revolutionized document management, discovery and research, it has changed how we communicate with our clients, colleagues and adversaries. Far fewer hard-copy formal letters are exchanged among counsel, with most practitioners favoring the speed and ease associated with email and other forms of electronic communication. Despite the inherent dangers associated with email, it has become the primary vehicle of legal

communication. Even our formal communications with courts are now "e-filed" in most jurisdictions. Recent technological advances have impacted everything from initial case analysis to trial practice to client requests for electronic billing. Some firms have been proactive in utilizing technology to assure improved client services and have developed practice models that enhance efficiency and provide greater value to clients. For these client-centric firms, staying current with advances in legal technology is as much a priority as recruiting top-flight legal talent and obtaining the very best results for their clients.

Q. What changes do you see in hiring practices as senior lawyers retire?

A. For a number of reasons, including the recession, many firms are focused on lateral and small-boutique acquisitions that can make immediate contributions to the firm's ability to respond to client needs as well as the firm's bottom line. Nevertheless, firms remain interested in attracting top-flight associates. Effective utilization of new attorneys to support the work of more experienced lawyers (often called "leveraging") continues to be an essential element in providing value to clients. On the other end of the spectrum, as the baby boomer generation begins to retire from the practice of law, there is more focus on client succession, thus creating an incentive to help younger attorneys develop strong relationships with clients so as to facilitate successful transitions.

Corresponding Changes in the Curriculum



In addition to adding courses to the curriculum to match changes in the profession, Touro has expanded its experiential learning offerings in practice areas that reflect the times.

Touro's curriculum reflects many of the changes in the profession identified by Lois Schlissel. Most notably, with respect to document management and the profound changes in discovery practice made possible by technology, Touro now offers a course entitled "E-Discovery." Among other topics, this course explores the legal and ethical challenges faced by attorneys, including identifying ESI (electronically stored information) types and locations, advising clients of their obligations in preserving ESI and the serious potential consequences for failing to do so. These issues are also explored in our Pre-Trial Litigation course where students participate in simulations and drafting exercises to apply what they have learned. The relevance of technology to law and law practice is reflected in such new courses as Digital Media and Advertising Law; Privacy in a Digital Age; Cybercrime; and Cyberlaw. Changes in the nature of the profession have led the faculty to approve courses entitled Law Practice Management; Entrepreneurship and the Law; Human Resources Management in the 21st Century Global Workplace; and Foreign and International Legal Research.

In addition to adding courses to the curriculum to match changes in the profession, Touro has expanded its experiential learning offerings in practice areas that reflect the times. As described earlier, our newest clinics -- the Disaster Relief Clinic, the Veterans & Servicemembers' Rights Clinic, the Mortgage Foreclosure and Bankruptcy Clinic, and the Advanced Bankruptcy Clinic -- all represent the law school's leadership role in responding to access to justice issues as they arise in our community.

These are challenging times for legal education. In an era of declining enrollment and an unfavorable job market, it is imperative that we offer a high quality program of legal education that equips students with the knowledge, skills and values they need for a changing profession. Fortunately, we have been hard at work on this project far before the current storm. Through our longstanding and ever-evolving emphasis on experiential learning and our deep-seated commitment to social justice, along with new initiatives in Land Use and Sustainable Development, Longevity and Aging, and Health Care Law -- all designed to address burgeoning areas of the law -- our curriculum continues to adapt to prepare students for a changing legal landscape.

5. *Educating Lawyers: Preparation for the Profession of Law*, William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, Lee S. Shulman. San Francisco: Jossey-Bass, 2007.
6. *Best Practices for Legal Education: A Vision and a Roadmap*, Roy Stuckey and others, published by the Clinical Legal Education Association, 2007.