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## Toward Equal Access to Justice: Rethinking the Role of Law Schools

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## Toward Equal Access to Justice: Rethinking the Role of Law Schools

### Cover Page Footnote

Art Stolnitz and Elvin E. Overton Distinguished Professor of Law and Director of Advocacy and Clinical Programs, University of Tennessee College of Law. Professor Blaze also served for several years as Chair of the Tennessee Alliance for Legal Services and continues to serve as faculty advisor to UT Pro Bono.

TOWARD EQUAL ACCESS TO JUSTICE:  
RETHINKING THE ROLE OF LAW SCHOOLS

*Douglas A. Blaze*<sup>\*</sup>

“Injustice anywhere is a threat to justice everywhere.”<sup>†</sup>

## I. Introduction

If the goal is equal access to justice, as it must be, the pro bono efforts of lawyers are relatively insignificant. Despite years of exhortation by an impressive assortment of judges and bar leaders and the addition of increasingly strong aspirational language in professional rules,<sup>1</sup> an abysmally small percentage of lawyers engage in pro bono representation.<sup>2</sup> According to the best national estimate, lawyers provide on average less than a half-an-hour per week of assistance to the poor.<sup>3</sup> Staff attorneys from federally-funded legal aid programs provide most of the civil legal services available to low-income clients.<sup>4</sup> The

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<sup>\*</sup>Art Stolnitz and Elvin E. Overton Distinguished Professor of Law and Director of Advocacy and Clinical Programs, University of Tennessee College of Law. Professor Blaze also served for several years as Chair of the Tennessee Alliance for Legal Services and continues to serve as faculty advisor to UT Pro Bono.

<sup>†</sup>Martin Luther King, Jr., *Letter from a Birmingham Jail*, April 16, 1963, *available at* [http://www.sas.upenn.edu/African\\_Studies/Articles\\_Gen/Letter\\_Birmingham.html](http://www.sas.upenn.edu/African_Studies/Articles_Gen/Letter_Birmingham.html).

<sup>1</sup>The ABA Model Rules of Professional Conduct state: “Every lawyer has a professional responsibility to provide legal services to those unable to pay.” MODEL RULES OF PROF’L CONDUCT R. 6.1 (2003).

<sup>2</sup>Judith L. Maute, *Changing Conceptions of Lawyers’ Pro Bono Responsibilities: From Chance Noblesse Oblige to Stated Expectations*, 77 TUL. L. REV. 91, 94 (2002).

<sup>3</sup>Deborah L. Rhode, *The Professionalism Problem*, 39 WM. & MARY L. REV. 283, 291 (1998).

<sup>4</sup>The Legal Services Corporation (LSC) administers the federal grant

pro bono efforts of private attorneys supplement the work of the legal aid offices. But even legal aid and pro bono efforts combined only serve, at best, twenty-percent of the civil legal needs of the poor.<sup>5</sup> Not only is the situation unlikely to improve in any significant way in the future, it may be getting worse.<sup>6</sup>

For pro bono to be a meaningful component of any comprehensive effort to significantly increase the availability of legal services to the indigent,<sup>7</sup> there must be structural changes to the system of the delivery of pro bono legal services. The present system of shared responsibility between the federally-funded legal service providers and the private bar has not been sufficiently effective in

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program to civil legal aid programs. See 45 C.F.R. § 1600-1644 (2002).

<sup>5</sup> Maute, *supra* note 2, at 94; see also Douglas A. Blaze, *The Crisis in Legal Aid: Working Together, We Just Might Make a Difference*, TENN. B. J., Jan. 2003, at 14 (reviewing Tennessee statistics).

<sup>6</sup> For example, current federal support for legal services adjusted for inflation is approximately one-half of the 1980 funding level. See Federal Funding Follies Chart, Equal Just. Mag., Summer 2002 at 18-19, available at <http://www.ejm.lsc.gov/EJMIssue2/federal/funding/federalfundingchart.jpg>. Even more telling, a recent study in Tennessee found that only 5% of the civil legal needs of the poor are being met. See Thomas J. Galligan, Jr., *Understanding the Unrepresented: The Tennessee Statewide Comprehensive Legal Needs Survey for 2003*, TENN. B. J., Feb. 2005, at 14, 16.

<sup>7</sup> There are, of course, a number of alternative ways to address the problem of limited access to justice, including mandatory pro bono requirements and increased funding through a special tax on lawyers. In addition, a number of commentators have questioned the relative efficacy of pro bono work as a means of meeting the legal needs of the poor. See, e.g., Rob Atkinson, *A Social-Democratic Critique of Pro Bono Publico Representation of The Poor: The Good as the Enemy of the Best*, 9 AM. U. J. GENDER SOC. POL'Y & L. 129, 139-57 (2001). The debate, while very important, is beyond the scope of this brief essay. The discussion here accepts the legitimacy of the potential contribution of the pro bono efforts to the goal of more equal access to justice.

increasing the amount of pro bono work by private lawyers. To effect the dramatic changes that are required, new participants are needed and new leaders must step forward.

This essay examines one possible source of new leadership and additional resources—law schools. Law schools can be much more than a modest supplemental source of pro bono services. Using the University of Tennessee College of Law student pro bono program as an example, this essay attempts to demonstrate that law schools are uniquely positioned to assume a vital role in advancing the cause of equal access to justice.

## II. Limitations of the Present System

Most pro bono programs are operated by, or in association with, federally-funded legal service programs. The reason is simple—money. Governing regulations require federally-funded legal service programs to devote “at least twelve and one-half percent (12 1/2 %) of [their federal funding] to the involvement of private attorneys in the delivery of legal services.”<sup>8</sup> The preferred way of involving private attorneys in serving the poor is through pro bono representation or reduced fee programs.<sup>9</sup> As a result, legal aid programs have assumed a prominent role in the coordination and provision of pro bono legal services. While many pro bono projects are operated in association with bar organizations, legal aid offices provide leadership for the projects by using “private attorney involvement” (PAI) funds for program administration and coordination.<sup>10</sup>

While there are a number of benefits to a

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<sup>8</sup> 45 C.F.R. § 1614.1 (2002).

<sup>9</sup> 45 C.F.R. § 1614.23(a) (2002).

<sup>10</sup> For example, Legal Aid of East Tennessee (LAET) operates a Pro Bono Project in the Knoxville, Tennessee area in cooperation with four county bar associations. Federal funds support a project director and staff.

collaborative effort between legal aid programs and the private bar in the provision of pro bono legal services, there are inherent structural limitations in such a delivery system. First, federally-funded legal service programs are subject to significant regulatory restrictions, which limit who can be represented, what kind of legal matters can be handled, and even what types of legal strategies can be employed on behalf of clients.<sup>11</sup> These restrictions effectively extend to any project in which a federally-funded legal aid program is involved or any project which is financially supported by the legal aid program, regardless of the original source of the supporting funds.<sup>12</sup> Thus, any pro bono program operated in association with a federally-funded legal aid provider, as most are, is similarly limited with respect to clients, case types, and legal strategies. For example, pro bono lawyers likely would be precluded from representing many recent immigrants or from filing class actions.<sup>13</sup>

Second, while the predominant paradigm of pro bono projects as cooperative ventures between legal aid providers and bar associations may foster collaboration between the partners, the organizational structure can also limit the sense of ownership and degree of commitment on the part of each partner. Both partners share responsibility; no partner has primary responsibility. Without clearly identified leadership, accountability for a project's success

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<sup>11</sup> See, e.g., 45 C.F.R. § 1613 (2002) (restricting legal assistance with respect to criminal proceedings); 45 C.F.R. § 1615 (2002) (restricting actions collaterally attacking criminal convictions); 45 C.F.R. § 1617 (2002) (prohibiting class actions); 45 C.F.R. § 1626 (2002) (restricting legal assistance to aliens); 45 C.F.R. § 1633 (2002) (restricting representation in certain eviction proceedings); 45 C.F.R. § 1637 (2002) (restricting representation of prisoners); 45 C.F.R. § 1639 (2002) (prohibiting challenges to welfare reform legislation).

<sup>12</sup> 45 C.F.R. § 1610 (2002) (discussing use of non-LSC funds, transfers of LSC funds, and program integrity).

<sup>13</sup> 45 C.F.R. § 1617 (2002) (regarding class actions); 45 C.F.R. § 1626 (2002) (dealing with restrictions on legal assistance to aliens).

may be diluted, thereby hindering growth and progress.

This problem can be exacerbated by the competing priorities of the legal service programs. For a legal aid office, the primary mission will usually be to directly provide the highest quality legal services to the greatest number of people having the most significant need. Committing money and effort to pro bono projects can conflict with that mission, however, by diverting time and energy from direct client service. Pro bono initiatives are viewed, at least by some legal aid personnel, as a less efficient means of serving the client population.<sup>14</sup> As a result, the overall commitment of a legal aid office to a pro bono project and its success may be diminished.

Regardless of the reasons, the reality is that the pro bono efforts fostered by “private attorney involvement” funding have been met with limited success. Although the twelve and one-half percent PAI funding requirement has been in place since 1981,<sup>15</sup> there has been no significant increase in pro bono legal representation by private lawyers in the intervening two decades. To the contrary, the contribution of the pro bono efforts of the private bar to more equal access to justice remains relatively small.<sup>16</sup>

Pro bono can potentially play a much more important and meaningful role in the struggle for equal access to justice.<sup>17</sup> To maximize that potential, however, new partners, new leaders, and new approaches need to be identified and utilized. Numerous commentators have

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<sup>14</sup> See *Recommendations of the Conference on the Delivery of Legal Services to Low-Income Persons*, 67 FORDHAM L. REV. 1751, 1785-86 (1999) [hereinafter *Recommendations*] (discussing the need to evaluate PAI initiatives).

<sup>15</sup> *Id.* at 1785.

<sup>16</sup> See *supra* notes 2-4 and accompanying text.

<sup>17</sup> See Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 FORDHAM L. REV. 2415, 2415-16 (1999) (discussing the valuable historical contribution of pro bono work).

argued that law schools have a special responsibility—ethically, morally, and pedagogically—to participate in programs providing pro bono legal assistance to the poor.<sup>18</sup> This essay expressly adopts and embraces those arguments. The thesis of this essay, however, is somewhat different. Not only do law schools have a particular responsibility to participate in the provision of pro bono legal services, law schools are uniquely positioned to assume a crucial role in advancing the cause of equal access to justice through such participation.

### III. Why Law Schools: An Example

The University of Tennessee College of Law has sponsored a student pro bono program, known as UT Pro Bono, for over ten years.<sup>19</sup> Like many law school pro bono projects, the program is limited in the amount and scope of services provided.<sup>20</sup> Yet, even as the project is presently configured, the contribution is not insignificant: 33% of the students participate in collaboration with 60 alumni lawyers, providing nearly 1400 hours of pro bono service

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<sup>18</sup> See, e.g., id. at 2433-36; James L. Baillie & Judith Bernstein-Baker, *In the Spirit of Public Service: Model Rule 6.1, The Profession and Legal Education*, 13 LAW & INEQUALITY 51, 62-67 (1994); Howard Lesnick, *Why Pro Bono in Law Schools*, 13 LAW & INEQUALITY 25, 25-

29 (1994); David Luban, *Faculty Pro Bono and the Question of Identity*, 49 J. LEGAL EDUC. 58, 68-70 (1999); Christina L. Rosas, Note, *Mandatory Pro Bono Publico for Law Students: The Right Place to Start*, 30 HOFSTRA L. REV. 1069, 1075-78 (2002).

<sup>19</sup> For more information on UT Pro Bono, see UT Pro Bono, <http://www.law.utk.edu/departments/CLINIC/clinicprobono.htm> (last visited Sept. 9, 2005).

<sup>20</sup> For extensive information on law school pro bono programs, including the report of the Commission on Pro Bono and Public Interest Opportunities of the Association of American Law Schools, see Association of American Law Schools, [www.aals.org/probono/](http://www.aals.org/probono/) (last visited Sept. 9, 2005).



annually.<sup>21</sup> Moreover, there are several attributes of UT Pro Bono that effectively demonstrate the considerable potential for law schools to play a key role in the provision of pro bono legal services. For example, law schools are uniquely situated to provide access to valuable sources of expertise and new resources that could be mobilized on behalf of pro bono clients.

### **A. Interdisciplinary Resources**

One of the most successful components of UT Pro Bono is the Family Justice Project. Law students and lawyers participating in the Family Justice Project interview, counsel, and assist with the legal needs of the families of students enrolled at three elementary schools in Knoxville. The three schools are designated as “full-service” schools, meaning that each school serves as an access point for the families to a panoply of social and legal services. The project, which is the brainchild of Professor Robert Kronick of the University of Tennessee College of Education, Health, and Human Sciences, operates as an interdisciplinary collaboration between students and faculty at the College of Law, faculty from the College of Education, local social services agencies, and Legal Aid of East Tennessee (LAET). The interdisciplinary cooperation enables project teams to utilize a more holistic approach to the social and legal problems presented by the client families.

The law school involvement has been crucial to the success of the program. As part of a larger university, the law school has been able to serve as a connection between the education faculty and the other partners. At the same

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<sup>21</sup> Statistics for the 2001-2002 and 2004-2005 academic years are contained in project records on file with the author. Specifically, the student hours recorded for 2001-2002 and 2004-2005 were in excess of 1400 and 1100 hours respectively.

time, significant connections between the law school and LAET provide a bridge between the legal aid program and other participating individuals and organizations.

As the Family Justice Project demonstrates, law schools have enormous potential to provide connections to other academic departments to facilitate innovative interdisciplinary approaches to the social and legal needs of the poor. So far the experience of UT Pro Bono has been that other academic departments are uniformly enthusiastic about getting involved. For example, both the College of Social Work and the College of Nursing have assisted with a component program of UT Pro Bono that assists victims of domestic violence.

The value of such a multi-disciplinary approach to the legal needs of the poor is widely recognized.<sup>22</sup> The newest label for this type of legal service program is “holistic representation.” This approach requires consideration and analysis of the legal problem being confronted in the context of the client’s life and larger community problems. The “whole client condition is crucial, not just case resolution.”<sup>23</sup> An essential element of this broader problem-solving strategy is reliance on other professionals like social workers.<sup>24</sup>

Yet, just getting people together is not enough. Law schools have to commit not only to the task of bringing various disciplines to the table; law schools have to commit to the more challenging responsibility of facilitating and coordinating the efforts of those disciplines for the benefit of clients with legal and social problems. This role, however, is appropriate for law schools and one

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<sup>22</sup> See, e.g., *Recommendations*, *supra* note 14, at 1766.

<sup>23</sup> Cait Clarke, *Problem-Solving Defenders in the Community: Expanding the Conceptual and Institutional Boundaries of Providing Counsel to the Poor*, 14 GEO. J. LEGAL ETHICS 401, 429 (2001) (discussing whole-client representation or holistic advocacy in criminal cases).

<sup>24</sup> *Id.*

that law schools are well-situated to assume.

## **B. Connections To The Profession**

Law students are naturally interested in a very wide range of practice areas; UT Pro Bono, being designed and run by law students, reflects the breadth of those interests. UT Pro Bono includes programs that serve the homeless, victims of domestic violence, low-income taxpayers, inmates with potential innocence claims, and immigrants, among others. These programs are operated in association with the private bar, selected alumni, the public defender, the criminal defense bar, and several legal aid offices.

The breadth of these connections represents an opportunity, as yet unrealized, to address a significant flaw in the present system of delivering legal services to the poor. Sources of legal services for low-income clients are overly compartmentalized. Different legal service providers often operate in relative isolation from other providers.<sup>25</sup> For example, civil legal aid lawyers cannot handle any criminal matter, even when the criminal proceeding is directly related to a client's civil case and the criminal matter may significantly affect the resolution of the civil case.<sup>26</sup> Yet, there is little, if any, collaboration or cooperation between public defenders representing indigent criminal defendants and legal aid lawyers serving essentially the same clients.<sup>27</sup>

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<sup>25</sup> Recognizing this problem, the Legal Services Corporation initiated a controversial planning process designed to encourage greater coordination and collaboration among federally-funded legal aid programs and other service providers. See John A. Tull, L.S.C. Program Letter 98-1, February 12, 1998, *available at* [www.lsc.gov/foia/pl/98-1.htm](http://www.lsc.gov/foia/pl/98-1.htm).

<sup>26</sup> 45 C.F.R. § 1613 (2002).

<sup>27</sup> For example, the Knox County Public Defender recently sponsored a national conference devoted to addressing all of a client's socio-legal needs, including civil legal problems, through "holistic representation."

At the same time, there is a renewed or resurgent interest in addressing the legal and social needs of the poor in a more coordinated and comprehensive way.<sup>28</sup> Someone needs to facilitate communication and collaboration to make this “holistic” ideal more of a reality. The efficacy and efficiency of the provision of legal services could be improved significantly. Such collaboration would encourage creative and innovative approaches to legal and social problems. Initiating a dialogue between the various providers of legal services to the poor would be an important first step. As the UT Pro Bono program demonstrates, law schools can, and should, assume responsibility for starting the process.

### C. Flexibility

One of the key reasons for the success of UT Pro Bono is the inherent flexibility of the overall program. As student interest has changed or new client needs have become apparent, new components of the program have been created.<sup>29</sup> For example, in the past few years, the immigrant Hispanic population of East Tennessee has increased dramatically. There are, however, few social or legal programs serving this group of people. Legal aid

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See The National 40th Anniversary Gideon Celebration, [www.pdknox.org/Gideon/program.html](http://www.pdknox.org/Gideon/program.html) (last visited Sept. 9, 2005). No civil legal aid lawyer attended this celebration.

<sup>28</sup> See, e.g., Stacy L. Brustin, *Legal Services Provision Through Multidisciplinary Practice – Encouraging Holistic Advocacy While Protecting Ethical Interests*, 73 U. COLO. L. REV. 787 (2002); Ellen Marrus, *Best Interests Equals Zealous Advocacy: A Not So Radical View of Holistic Representation for Children Accused of Crime*, 62 MD. L. REV. 288 (2003).

<sup>29</sup> The downside of a student-run program is, of course, the possibility that as student interest wanes or particular students graduate, projects may decline or even fade away. An institutional commitment by the school to the new projects can mitigate, if not eliminate, this problem.

programs, as discussed previously, are limited by regulatory restrictions in their ability to serve many immigrants.<sup>30</sup> To fill the void of available services, a member of the law faculty, Fran Ansley, and several law students created the Hispanic Assistance Project in cooperation with a local Catholic church and several Spanish-speaking members of the bar. As the project was initially designed, participating law students and lawyers provided legal advice and referrals at the Catholic church one Sunday every month. Over time, the focus of the project has changed to address more directly identifiable legal needs of this particular client community.

As the Hispanic Assistant Project illustrates, the ability to respond quickly, creatively, and without restriction permits a program to address particular legal problems more effectively. Flexible program design can also maximize the special interests, and resulting commitment, of participating students and lawyers. Unfortunately, as discussed previously, the structure of the present prevailing pro bono service delivery system does not share these attributes.

#### **D. Students and Faculty**

UT Pro Bono is student-run and receives limited law school support. The law school provides office space and a very modest operating budget. The clinical program provides minimal secretarial support. The project has no paid administrator or other staff. Participation is entirely voluntary, although the law school now recognizes public service and pro bono work by students. Despite these limitations, approximately one-third of the law students participate, contributing an average of 70 hours per participant. If the law school increased its institutional commitment by providing a full-time paid coordinator, for

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<sup>30</sup> See *supra* notes 9-11 and accompanying text.

example, it is reasonable to assume that student participation would also increase.

There are 187 law schools approved by the American Bar Association.<sup>31</sup> In the fall of 2004, total J.D. enrollment at those schools was over 140,000.<sup>32</sup> The potential of this resource is considerable to say the least. For example, if the “aspirational” goal of a minimum of 50 hours of pro bono work per lawyer contained in the ABA Model Rules of Professional Conduct<sup>33</sup> were applied to law students, over six and one-half million hours of pro bono work would be contributed. Even if the requirement were reduced to a more modest 50 hours of pro bono work during the three years of law school and only half the students participated, over one million hours of pro bono work would still be generated. Even assuming that law students represent a less efficient method of providing legal services—due to training and supervision needs—law students can make a significant contribution to the cause of greater access to justice.

The indirect benefits of student involvement are also important. Hopefully, participation would foster an increased understanding of the need for equal access to justice among law students, as well as a desire and commitment to engage in pro bono or public interest work after graduation from law school.<sup>34</sup> Presumably, the result would be both a short-term and long-term increase in the number of “lawyers” providing pro bono legal services. Participation would also provide students with an

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<sup>31</sup> ABA-LSAC, Official Guide to ABA-Approved Law Schools, app. A, at 832 (Wendy Margolis et al. eds., Law School Admissions Council, 2006).

<sup>32</sup> *Id.*

<sup>33</sup> MODEL RULES OF PROF'L CONDUCT R. 6.1 (2003).

<sup>34</sup> Stephen F. Befort & Eric S. 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 1, 13 (1994).

additional opportunity to develop lawyering skills and gain invaluable experience.

Law faculty can also make a significant contribution. For example, at The University of Tennessee, several faculty members have taken the lead in developing particular student pro bono projects to address problems of interest to those faculty members. As mentioned previously, a faculty member was instrumental in establishing the Hispanic Assistance Project. Another faculty member, working with the criminal defense bar, helped create and now serves as faculty advisor to the Tennessee Innocence Project. As Professor Luban has noted, somewhat amusingly, some faculty may be reluctant to take on significant case or client responsibility.<sup>35</sup> But faculty participation does not necessarily have to involve direct legal representation of clients. Faculty participation can take many forms, including service as experts, consultants, community educators, and advisors to particular pro bono projects. And, hopefully, participation in a limited role by faculty members may instill sufficient confidence and increase the extent of their involvement.

Admittedly students are not skilled lawyers. Law students can, however, provide a broad array of services. Students can assist with client communications, fact investigation, and legal research.<sup>36</sup> The range of legal services law students can effectively provide can be expanded considerably with appropriate and targeted training and, most importantly, sufficient supervision.

For students to make a truly meaningful contribution, there must be a sufficient number of lawyers

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<sup>35</sup> David Luban, *Faculty Pro Bono and the Question of Identity*, 49 J. LEGAL EDUC. 58, 72 (1999) (noting that academic colleagues often remark "that they have tenured colleagues they would be afraid to loose on a hapless client").

<sup>36</sup> See generally Rebecca A. Cochran, *Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service*, 8 B. U. PUB. INT. L. J. 429 (1999).

participating to provide direction and supervision. Even if most law faculty became involved, a large number of additional practicing attorneys would be needed. Any law school led or sponsored pro bono program has to include the involvement of a large number of lawyers to help handle cases and supervise students. Fortunately law schools have access to an enormous pool of potential candidates in their alumni.

### **E. Alumni**

More of the nearly 700,000 lawyers in the United States need to become involved in the provision of pro bono services. To achieve that goal, new ways of encouraging participation must be identified. One possibility that merits serious consideration is utilizing the existing relationship between law schools and alumni.

All lawyers are—hopefully—alumni of some law school. Alumni often have a special affinity for, or connection with, their law school. If law schools became more directly involved in the provision of pro bono legal services, the alumni relationship could be used to mobilize a significant number of attorneys that are not presently involved with pro bono work. For example, on several occasions, UT Pro Bono has solicited assistance for particular projects from alumni in the area. In those instances, special care was taken to solicit assistance from alumni lawyers that had not previously participated in the pro bono project operated jointly by the Knoxville Bar Association and Legal Aid of East Tennessee. The response to the UT Pro Bono solicitation was uniformly overwhelming, as far more lawyers responded than the student leaders of UT Pro Bono could effectively utilize in the project.

Law school involvement may also appeal to other interests of bar members. Many lawyers are very interested



in legal education and the training of new lawyers. Pro bono programs can easily be designed to involve both lawyers and law students in service that provides significant learning opportunities. For example, through UT Pro Bono, law students regularly participate in the LAET Saturday Bar Program. Through the Saturday Bar Program, lawyers conduct intake interviews of potential pro bono clients. Law students regularly assist the lawyers in conducting the interviews and the students have the opportunity, if appropriate, to assist the pro bono lawyer ultimately assigned to the case. As a result, students have the opportunity to learn lawyering skills through direct experience and observation. Participating lawyers have the satisfaction of providing both quality legal services to the client and a valuable educational experience to the law student.

#### **IV. The Challenges**

Obviously there are enormous hurdles that would have to be overcome before a significant law school-led pro bono initiative could become a reality. Several, such as securing sufficient and serious participation by alumni lawyers and law students, have already been mentioned. Hopefully, many other problems can be solved through creative program design and cooperation among the involved partners.

Securing adequate financial resources, however, could prove more challenging. Funding for higher education is a perennial problem, and law schools are no different. But if the responsibilities for pro bono are shifted to the law schools, part or all of the funds presently devoted to pro bono could be proportionately redirected. For example, a portion of allocated PAI funds could be shifted from legal service programs to law school pro bono

programs where appropriate.<sup>37</sup> The loss of funds by legal service programs would be offset by the reduction in responsibility and staffing needs and the renewed ability to focus exclusively on direct service to clients. The bar would also have to provide financial support in recognition of the fact that, even if the law schools begin to provide needed leadership and coordination, equal access to justice is a professional responsibility of the entire bar. In addition, the expanded public service provided by the law schools may well result in increased funding from new and existing sources of financial support.

But the biggest challenge would be securing a commitment from the law schools to accept the responsibility and to assume the mantle of leadership. Moreover, the culture of many law schools and law school faculties may significantly limit the receptivity of those institutions to accepting the enormous task and responsibility suggested here. Virtually every law school professes to have a three part mission: scholarship, teaching, and service. The reality is, however, that service lags far, far behind scholarship and teaching in institutional value and importance. While a pro bono program of the scale envisioned here would have some educational value, the program's primary purpose definitely would be service. Therefore, a law school's willingness to accept and assume responsibility for pro bono would require a reconsideration, if not reordering, of institutional values.<sup>38</sup>

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<sup>37</sup> Under present regulations, the restrictions applicable to legal aid programs would apply to law schools if they received PAI funds. *See supra* notes 10-12 and accompanying text. The combined effort of the organized bar and law schools could potentially result in changes to the regulations.

<sup>38</sup> *See* Gregory Vincent, *Reviving the Land-Grant Idea Through Community-University Partnerships*, 31 S.U. L. REV. 1, 21-22 (2003) (advocating that land-grant universities should engage in renewed outreach to address societal problems through university-community partnerships).

Gaining law school support would be difficult, but not impossible, to achieve. For example, thirty years ago, much of legal academia strongly resisted the idea of clinical education. Now, however, nearly every law school has a clinical program of some significance—and trumpets that fact in recruiting quality students. But the effort will take time and pressure—pressure from the bench, the bar, and from within the academy. It would also take a few pioneering law schools, working in cooperation with the bar and legal services programs, to lead the way.

## **V. Conclusion**

Most members of the legal profession, even legal academics, agree that law schools should play some role in working toward the goal of equal access to justice. But law schools should and can do far more than just provide supplemental assistance to existing pro bono programs. Law schools should and can become vital partners in the provision of pro bono legal services. Law schools are uniquely positioned to enlist the assistance of other disciplines and mobilize the relatively untapped resources of alumni and law students in the effort. Although the profession as a whole must be committed to achieving equal access to justice, law schools can and should lead the effort.

