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A CUSTOM TAILORED FORM OF POST-GRADUATE LEGAL TRAINING: THE RHODE ISLAND CENTER FOR JUSTICE

ROBERT MCCREANOR*

“Perhaps the greatest challenge facing today’s judicial system is to provide access to meaningful legal services for all our citizens. The problem is especially acute for persons of low or modest means. In these times of dwindling resources, we must be ever vigilant to assure that ‘equal justice under the law’ is a reality rather than merely a platitude.”

—Chief Justice Paul A. Suttell
Rhode Island Supreme Court

“In 2009, a total of 209 people passed the bar in Rhode Island. But the State is expected to have about 102 legal job openings each year from 2010 to 2015, leaving a surplus of 107 lawyers [annually].”

—Ted Nesi, WPRI.com, summarizing findings from EMSI’s “New Lawyers Glutting the Market” report.

If the legal profession in Rhode Island shares uniformly in the nation’s current paradoxical crisis of too many unemployed law graduates amidst glaring scarcity of accessible legal services for low and moderate income people, it is nonetheless unique in at least several respects. The smallest state in the Union was, for most of its history, also one of the very few not to have a law school within its geographic boundaries. Since its founding in 1993, Roger Williams University (RWU) School of Law has remained the sole such institution in Rhode Island. With a total population of roughly 1 million, and an array of pre-existing regional law schools that historically generated

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Rhode Island's practicing legal community,¹ the State may not be lacking proportionately in this regard.

However, other distinguishing statistical factors certainly mark the Ocean State's legal landscape. Rhode Island ranks high on the list of practicing attorneys per capita,² a condition which could be of greater significance given the State's diminutive size and corresponding concentration of attorneys. Despite this relative abundance of practitioners, comparatively few lawyers engage in full-time public interest work. For decades, only one major non-profit legal services provider has existed in Rhode Island. As a Legal Services Corporation (LSC) funded entity, Rhode Island Legal Services, Inc. (RILS) has a storied and respected tradition of serving the legal needs of the State's poor and vulnerable.³ Operating within the Reagan-era restrictions imposed on LSC organizations and given its limited capacity, RILS remains a vital, and most often the only, resource for the subsection of Rhode Islanders who are eligible for its legal services. Notwithstanding past attempts to construct and maintain alternative sources of legal aid,⁴ the significant number of low and moderate income residents who are not served by RILS simply goes without legal representation in most instances. Consequently, Rhode Island lacks the extensively developed network of professional non-profit public interest practitioners that exists in neighboring states.⁵

The singular nature of Rhode Island's legal services terrain is of particular significance in the context of the State's economic condi-

¹ In discussing the establishment of the first Annual Review of Rhode Island Law by Boston-based Suffolk University Law Review in 1973, it is noted that "a significant portion of the law school student body came from Rhode Island. . ." *available at* <http://suffolklawreview.org/about/history/> (last visited 10/25/15).

² <https://lawschooltuitionbubble.wordpress.com/original-research-updated/lawyers-per-capita-by-state/> (last visited 10/25/15).

³ See RHODE ISLAND LEGAL SERVICES, *available at* <http://www.rils.org/> (last visited 12/12/15). Rhode Island Legal Services offers legal representation to low-income clients "for the purpose of improving their economic condition and overall wellbeing by protecting and enforcing legal rights." *Id.*

⁴ See *Press Release: Statement by Geoffrey A. Schoos, Esq., President and Founder Rhode Island Center for Law and Public Policy, Inc.*, RHODE ISLAND CENTER FOR LAW AND PUBLIC POLICY, *available at* <http://www.riclapp.org> (last visited 12/12/15). The Rhode Island Center for Law and Public Policy suspended operations as of December 23, 2014 due to lack of funding, but the organization hopes the closing will only be temporary. The Legal Aid Society of Rhode Island merged with RILS in 1994 (see <http://www.lsc.gov/sites/lsc.gov/files/eweb/pdfs/Rhode%20Island%20Legal%20Services%20Inc%20Final%20PQV%20Report.pdf>).

⁵ See *Legal Aid/Pro Bono State Links*, NATIONAL CENTER FOR STATE COURTS, *available at* <http://www.ncsc.org/Topics/Legal-Services/Legal-Aid-Pro-Bono/State-Links.aspx> (last visited 10/25/15). There are a number of legal aid organizations in both Connecticut and Massachusetts, while there is only one listed resource for Rhode Island. *See id.*

tion. Rhode Island is the poorest state in New England.⁶ For most of the past decade, it has maintained one of the nation's highest rates of unemployment.⁷ As the State's demography is re-shaped by immigration, a proven source of commercial dynamism and growth, it also struggles to meet the basic needs of many newcomers. Latino and Asian-American poverty rates top thirty percent and, overall, more than twenty percent of children in the State live below the poverty line.⁸ In short, many Rhode Islanders are economically vulnerable and conclusive research has established that lack of access to legal services is both a causal and exacerbating factor of this condition.⁹

The Rhode Island legal community has not failed to make efforts toward fulfillment of its professional responsibility to provide services for the poor. On the contrary, the State's private bar is marked by a clearly charitable character as demonstrated by various pro bono and volunteer lawyering programs.¹⁰ What remains unaddressed by these laudable efforts, however, is the day-to-day presence of attorneys specializing in "poverty law" to advocate both on a case-by-case basis for needy individuals in the myriad relevant venues, including landlord-tenant court, public utilities division, labor standards enforcement tribunals, etc., and in a system-wide manner to level the playing field.¹¹ The bottom line equation: a State with serious economic hardships and severely limited legal services for the poor but, in line with

⁶ *RI now has Highest Poverty Rate in New England*, RI FUTURE, Sept. 23, 2014, available at <http://www.rifuture.org/ri-now-has-highest-poverty-rate-in-new-england.html>. See also *Percent of People Below Poverty Level in the Past 12 Months*, AMERICAN FACTFINDER, available at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_R1701.US01PRF&prodType=tableR1701.

⁷ See *R.I. Unemployment Rate Remains Fourth Worse in the Country*, THE PROVIDENCE JOURNAL, Jan. 28, 2015, available at <http://www.providencejournal.com/article/20150128/News/301289940>; see also *State Unemployment Rates*, National Conference of State Legislatures, available at <http://www.ncsl.org/research/labor-and-employment/2012-state-unemployment-rates.aspx> (last visited 10/25/15).

⁸ See *Children in Poverty*, RHODE ISLAND KIDS COUNT FACTBOOK, 2014, available at <http://www.rikidscount.org/Portals/0/Uploads/Documents/Ind12.pdf>; <http://talkpoverty.org/state-year-report/rhode-island-2014-report>; see also <http://www.census.gov/prod/2013pubs/acsbr11-17.pdf>.

⁹ Alan W. Houseman and Elisa Minoff. *The Anti Poverty Effects of Civil Legal Aid*, at <http://legallaidresearch.org/pub/4188/anti-poverty-effects-civil-legal-aid/> (last visited 10/25/15).

¹⁰ See *Pro Bono Volunteer Law Program*, HELP RI LAW, available at <http://www.helpri.org/node/80/pro-bono-volunteer-law-program> (last visited 12/12/15).

¹¹ See *Supporting Justice III: A Report on the Pro Bono Work of America's Lawyers*, THE ABA STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE, March 2013, available at http://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_Supporting_Justice_III_final.authcheckdam.pdf at 29. ("Attorneys overwhelmingly mentioned time constraints as the top factor that most discouraged them from providing more pro bono service in 2011, especially among corporate attorneys.")

the national trend, a burgeoning corps of underemployed or unemployed newly admitted attorneys.

Formulating a Response

This picture was clear in the minds of local attorneys Amato “Bud” DeLuca and Miriam Weizenbaum when they first contemplated doing something to further promote a culture of public interest law practice in Rhode Island. After more than twenty years of representing plaintiffs in medical malpractice cases along with substantial pro bono work, including litigating various cases under the auspices of the ACLU of Rhode Island, fighting for the educational rights of students, and other progressive causes, Bud and Miriam were looking to “give back” in a deeper and more sustained way that would go beyond conventional volunteer lawyering.¹² Importantly, they were willing and able to contribute financially as well as through the leveraging of their professional reputations and networks to make this effort successful.

The incubation of this general idea to be part of an access to justice initiative took initial shape through a deliberate and wide ranging survey of public interest lawyering endeavors throughout the country. Staffed by a Brown University graduate with deep connections in the grass roots community-based organizing and advocacy world of greater Providence and housed within their law firm office, Bud and Miriam’s “concept” moved toward “project” and, in that process, some principles were established regarding the nature and structure of any prospective entity. First, in order to be successful within the Rhode Island legal landscape as described above, the State’s prolific private bar would necessarily have to be engaged and supportive. For resource development considerations and given the ambitious but sensible goal of enhancing the professional public interest *culture*, there must be some mechanism for attorneys in private practice to participate. Second, there would need to be a permanent staffing presence to build expertise in areas of legal practice heretofore undeveloped within the State and maintain a routine presence in certain venues. To identify and address systemic rights violations, it would not suffice to exclusively train private practitioners. Finally, recent law graduates and newly admitted attorneys must be a centerpiece of the organization, both a means of providing legal services to those in need and themselves an object of the programming. Ultimately, the approach to addressing the justice gap would focus on growing a generation of lawyers oriented toward public interest practice.

¹² <http://www.delucaandweizenbaum.com> (last visited 12/12/15).

In a coincidence of tremendous fortuity for Rhode Island, this unconventional genesis of a professional public interest organization inside the private bar occurred simultaneously with RWU School of Law's exploration of post graduate training programs. Within the law school's leadership circles, and amongst clinical faculty and those involved with the law school's other innovative experiential education programs, interest in incubators and residencies was gaining. The school's "scoping" of these rapidly emerging entities was driven in part by the seemingly universal need of legal education institutions to go further in preparing students for the new and daunting job market. But it also aligned with RWU School of Law's intentional efforts to both promote experiential education and cultivate a public interest identity. Centered around the Feinstein Center for Pro Bono and Experiential Education, RWU School of Law had already constructed a robust and widely recognized array of related programs including guaranteed clinical instruction (either in-house or in an externship setting) for all students, an experiential learning requirement that mandates at least 50 hours of pro bono service, alternative Spring Breaks, practice based skills classes, and, perhaps its most distinctive feature, a Pro Bono Collaborative (PBC).¹³

Founded in 1996, the PBC was conceived by the law school as an effort to leverage the untapped resources of the private bar and law students to increase the provision of legal assistance to low-income Rhode Island communities through pro bono service. It connects private law firms, attorneys and RWU law students to community organizations that need pro bono legal services for their organization and/or their clients. The PBC's pro bono service model is unique in that it involves a three-way partnership— law firm/attorney, law school and community organization—to identify unmet legal needs and create pro bono projects that address those needs. Several national surveys of pro bono programs have cited RWU School of Law's PBC as an innovative and replicable model that increases access to justice for underserved communities.¹⁴ Moreover, the PBC approach had

¹³ <http://law.rwu.edu/feinsteincenter> (last visited 10/25/15).

¹⁴ In May 2013, Stanford Law Professor Deborah L. Rhode described the Pro Bono Collaborative as a model that "could be widely replicated" in her article *Access to Justice: An Agenda for Legal Education and Research*. In October 2012, THE LEGAL SERVICES CORPORATION Report of the Pro Bono Task Force described the Pro Bono Collaborative as "one great example of how much can be accomplished through collaboration." Also in October 2012 the National Center for Access to Justice featured the Pro Bono Collaborative in its report *Model Projects & Structures To Strengthen Law Student Pro Bono To Increase Access To Justice* describing "law student pro bono models that do a good job of increasing access to justice by responding to the legal needs of vulnerable people in underserved communities."

proven well suited to the Rhode Island legal landscape because it encourages broad and sustained engagement with the sizeable community of private practitioners and is in line with the local bar's tradition of volunteerism.

Hence, RWU School of Law was by no means in search of a cornerstone for building experiential education or public interest programming. Rather, interest was more precisely focused on "picking up" where the PBC and other projects "left off", namely after graduation. Incubators and residencies, in their various iterations, suggested the possibility of a continuing engagement with law graduates that could expand practical skills training, bridge the oft encountered gap between completion of a Juris Doctor and employment, and expand capacity of the bar to serve unmet legal needs. Acknowledging that pro bono is most accurately understood as "an adjunct to, not a replacement for legal aid"¹⁵ and perceiving the clear need for a more developed network of professional public interest practitioners within the State, RWU School of Law contemplated how a post-graduate training program could accomplish these particular objectives.

The virtues of a small State include fewer degrees of separation. So, the encounter between RWU School of Law's incubator/residency exploration and the emerging "justice center" project of two private practitioners was perhaps inevitable. In any case, it was soon apparent to both parties that a "joining of forces" could substantially benefit everyone's interests by pooling resources, leveraging the institutional identity of the sole law school within the State, and anchoring the initiative within an independent organization governed by representatives of the private bar, the law school and other community stakeholders. Consequently, a task force of sorts undertook more than a year of research including solicitation of input from the judiciary, community based organizations, law students, private practitioners, RILS attorneys, and others. The resulting product was an organizational model that incorporates aspects of the incubator and residency concepts but also draws on post graduate fellowships and traditional non-profit legal services structures.

The Rhode Island Center for Justice Model

In simplest terms, the Rhode Island Center for Justice (Center for Justice) is a multi-issue non-profit public interest law center. As a 501(c)(3) organization, it is governed by a board of directors, managed by an executive director and staffed by attorneys and non-attorneys who carry out programming, including free legal services, to

¹⁵ <http://www.theguardian.com/law/2012/nov/06/pro-bono-post-legal-aid>.

promote access to justice for low and moderate income individuals, families and communities in Rhode Island.

Distinct from traditional legal aid models, the Center for Justice conducts legal service provision exclusively in partnership with community-based organizations. Individuals seeking legal assistance generally cannot access the Center for Justice's legal resources directly through "walk-in hours" or by calling the Center for Justice's offices to schedule an appointment. Rather, the Center for Justice's partner organizations, initially including an immigrant workers' center, a Providence-based social service provider, and a community organizing group focused on utility shut off issues, facilitate identification of prospective clients and engage with the Center for Justice to operate grass roots legal clinics, workshops and other forms of legal assistance. This structure is intended both to leverage the Center for Justice's limited staffing resources to achieve a greater impact and to support base building efforts by local groups working to advance social justice through leadership development and advocacy.¹⁶

The Center for Justice is officially defined as an independent organization created in cooperation with RWU School of Law. Beyond the above described formation process, RWU School of Law's involvement in the Center consists of several profound commitments including physically housing the Center for Justice without charge in its downtown Providence facility. Additionally, the initial primary legal staffing mechanism of the Center for Justice is a post-graduate fellowship program exclusively open to RWU School of Law graduates. Four full-time staff attorney positions are filled through a competitive application process by which RWU School of Law alumni from the previous five graduating classes are selected to work at the Center for Justice for a two year period.

As the cornerstone of the Center for Justice's legal staffing plan, the fellowship program should notably enrich the experiential education curriculum of RWU School of Law. It expands the continuum of experiential learning opportunities at RWU beyond clinical coursework, practice based skills training and pro bono projects undertaken during three years of law school. For a small but carefully selected number of RWU graduates and recent alumni, the post-graduate fellowship will provide intensive training and supervision by professional public interest attorneys while working at the Center for Justice. The concept of staff attorney positions, limited in duration to one or two years, with a heavy emphasis on skills training and profes-

¹⁶ See Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443 (2001).

sional development is now familiar to many within the legal profession. In 1998, the Yale Law and Policy Review noted that “[t]here has been a remarkable flowering of post-law school fellowships over the past ten years.”¹⁷ Fifteen years later, such fully or partially funded post-graduate opportunities have multiplied as the traditional, prestigious law firm sponsored fellowships, Skadden and Equal Justice Works, have expanded and new programs, often sponsored directly by law schools, have emerged.¹⁸

The common features of these various fellowships include a commitment to innovation, critical examination of traditional approaches to poverty lawyering, deliberate development of fellowship “projects” through assessment of community needs and the proposed fellow’s substantive interest and skills, and prioritization of appropriate supervision and training opportunities.¹⁹ Altogether, the fellowship model seems ideally designed for the public interest oriented law graduate or recently admitted attorney who has plumbed the depths of experiential learning during three years of law school, integrated these various hands on experiences into their doctrinal education, formed opinions and practical understandings of how lawyering can best contribute to social justice work and is thus prepared to “experiment” within the laboratory of a legal services office. Such an opportunity is, of course, similar in nature to the experiential education afforded to law students who, for example, may undertake clinical work with a student practice order, but distinct insofar as the fellowship involves a programmatic development component. In essence, the student-lawyer becomes a lawyer-student whose scope of reflection now includes the many facets of building a non-profit legal services practice.

The Center for Justice will also strengthen *pre*-graduation experiential education at RWU School of Law through increased opportunities for internships, externships, alternative spring break placements, and other forms of public interest involvement. While such unpaid forms of practical training are often in abundant supply for law students in many venues, the significance of this new local source of placements is considerable given the comparative dearth of professional non-profit public interest law practices in Rhode Island. By encouraging RWU law students to engage with the Center for Justice

¹⁷ Louise G. Trubek. *Poverty Lawyering in a New Millenium*, 17 *YALE L. & POL’Y REV.* 461, 465 (1998).

¹⁸ See https://www.psjd.org/Postgraduate_Fellowships.

¹⁹ See <http://www.skaddenfellowships.org/about-foundation> (last visited 10/25/15); see also <http://www.equaljusticeworks.org/post-grad/equal-justice-works-fellowships> (last visited 10/25/15).

on multiple short-term projects, most likely under the auspices of the PBC, the school can broaden the range of experiential opportunities and also fortify its well-established public interest culture. Moreover, the exceptional success of the PBC also creates a natural space for full-time, non-profit legal practice. Because pro bono lawyering is best when complimented by professional public interest resources (i.e. the knowledge and input of specialized poverty lawyers), the Center for Justice's model reflects a logical expansion of RWU School of Law's public interest and experiential learning program and a complement to its highly effective PBC.

When considering this model in relation to the most recent trends in post-graduate, law school based training programs, the question arises: how does the Center for Justice compare to incubators or residencies in which law graduates are supported in the development of "low bono" law practices? Rather than funding a necessarily limited number of full-time staff attorney positions through the always daunting and uncertain work of non-profit fundraising and grants development, why not allow a greater number of new attorneys to establish revenue-generating firms within an incubator? With proper parameters and guidance, it has been shown, such models can also address access to justice gaps by proliferating community-based lawyers who are trained in areas of critical legal need and committed to the provision of affordable legal services.²⁰

This article does not dispute the logic or success of the traditional incubator model. Rather, we share the Rhode Island Center for Justice model in the belief that certain benefits inure from it which are of particular value in the environment within which it was created. First, the establishment of a permanent, full-time non-profit legal services organization promises to generate a more consistent presence of professional public interest lawyers within the courtrooms and other venues where poor people most often appear unrepresented. While private for-profit attorneys, charging on a sliding scale or "low bono" basis, may certainly provide representation to low and moderate income clients, it is inescapable that some categories of cases, such as certain non-payment eviction proceedings and appeals of public benefits denial, simply cannot be handled on a fee for service model. Thus, the Center for Justice functions to both train new lawyers in these specialized areas of poverty law and contribute toward culture changes in administrative and judicial tribunals where its staff attor-

²⁰ See http://www.abajournal.com/legalrebels/article/2013_legal_rebel_profile_fred_rooney; see also <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20Incubator%20Guide.pdf>.

neys are positioned to monitor and advocate on a case-by-case and system-wide level.

Second, the staff attorney-fellowship approach to post-graduate training may allow for more intentional and strategic exposure of new attorneys to pre-selected program areas. Whereas a lawyer learning to run a solo practice or small firm must select cases, at least in part, based upon the potential for fee generation, non-profit staff attorneys may be assigned to program areas for the purpose of skills training without regard to pecuniary considerations. Within a typical 24 month fellowship, for example, it is possible to design multiple “rotations” by which the new attorney is deliberately immersed in certain areas of practice, handling several cases of a similar nature, for periods of time sufficient to acquire the substantive knowledge and confidence necessary for competent representation. This type of structured experience may also be desirable for new attorneys who wish to develop a more well-rounded background and resume suitable for other public interest legal work including government lawyering.

Third, it is possible that a non-profit public interest legal practice can contribute in a unique and valuable way to a law school’s overall public interest identity and culture. Again, by endeavoring to provide legal services in areas heretofore unaddressed by the State’s limited number of non-profit legal practitioners, the Center for Justice brings new topics of discussion, calls for action and, hopefully, new solutions to the ongoing struggle for social justice within this community. In this vein, it is worth considering the value of “law and organizing” as a mode of experiential learning that can be made available to students through the Center for Justice’s particular model of non-profit legal practice. This modality of public interest legal practice, which necessarily involves significant unpaid work in support of grass roots community based organizations, is perhaps more feasible in the non-profit legal services context than in a different setting aimed toward incubation of viable for-profit law offices.

Conclusion

It is too early to evaluate the merits of the Center for Justice’s model. Having officially opened in January 2015, the Center for Justice has not yet been tested and the perceived benefits of its design are yet to be realized. Among the potential directions of growth for the organization is the development of a residency or incubator program as has been accomplished by more than a dozen law schools

throughout the country.²¹ Such an addition to and/or evolution of the Center for Justice model could be warranted by considerations of sustainability as well as an increased understanding of the particular unmet needs among low and moderate income communities of Rhode Island. Nonetheless, the shared experiences of local practitioners and other service providers which informed the development of the Center for Justice suggest that the establishment of a professional non-profit legal services program, free from LSC imposed restrictions, may be a necessary precursor to successful cultivation of “low bono” law offices among recent graduates. For the same reasons that pro bono work is most effective when layered on top of professional non-profit legal programs staffed by attorneys specialized in the relevant areas of practice, an incubator would be best served by a center of poverty law practice where full-time attorneys could both maintain a permanent presence in the necessary legal venues and help to identify the appropriate areas of focus and referrals for community-based low bono services. To attempt “low bono” law firm incubation in the absence of any pre-existing legal services programming would certainly risk a failure to identify the depths of unmet legal need amidst the exigencies of for-profit legal practice. Thus, in the particular context of Rhode Island, the Center for Justice model reflects a response to current unmet legal needs as well as a foundational undertaking for the future creation of other innovative programs.

The above described formation process does point to some essentials for turning a post-graduate training program idea into reality. Identification and engagement of stakeholders was critical to the Center for Justice’s incubation. In particular, the involvement of the private bar, principally a plaintiff’s side firm interested in the promotion of public interest lawyering, was instrumental in securing support and galvanizing the legal community around an access to justice initiative. This suggests that law schools and other institutions seeking to develop similar programs would benefit from a wider perspective of potential partners beyond traditional sources of support for civil legal aid. Recognizing that the private bar and the law school shared an interest in this effort allowed for the pooling of resources and leveraging of networks to create sufficient wherewithal for the successful culmination of what, if left within the silo of one institution, may have never moved past the conceptual stage.

Altogether, the “coming together” of the individuals and entities involved in the Center for Justice depended on an understanding of

²¹ See http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main.html (last visited 12/12/15).

and responsiveness to the particular nature of the Rhode Island legal community and the State as a whole. While the resulting design may not be equally sensible in other contexts, the process of its formulation suggests worthwhile considerations for those seeking to address access to justice gaps and the post-graduate legal practice condition in various settings. As the number of such experiential legal education programs continues to grow, we may expect and welcome a diverse flowering of forms and models suited to local environments.