Justice and Technology Clinic: A New Model of Delivery[1]

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Introduction

The Civil Justice System is Failing the Poor

Our justice system has failed to meet the needs of its most vulnerable and needy customers. Study after study of the legal needs of low-income people in the United States tell a remarkably consistent story. At least 80% of the legal needs of low-income people remain unmet. The unprecedented economic downturn starting in 2007 has made this legal need problem even more acute. Foreclosures, bankruptcies and consumer debt problems have skyrocketed. Yet the resources available to help low income people face the legal system are not growing to meet the need. Foundations that rely on interest from lawyers trust funds have declined significantly due to historically low interest rates. These local sources of support for civil legal services are the second largest components of funding after the federal appropriations distributed through the Legal Services Corporation.

Law Schools are Failing their Students

Our legal education system is failing our graduates. New skills and core competencies for the emerging world of technology-driven law practice are essential for students entering the legal field today. From the largest law firms to poverty law centers, new technologies are beginning to change the way lawyers

deliver quality and economical services to clients. The same economic crisis that is exploding the number of poor needing legal services is also triggering an explosion of technology and change in large law firms. Large firms must respond to declining revenue from corporate clients and demands for fixed fee, rather than hourly billing. To meet this new demand, large firms are turning to technology to automate discovery review, create flow charts of litigation and deal processes, improve business methods and manage legal work to stay within fixed fee budgets.[3] Yet, there are only a handful of law school courses and clinical opportunities where law students can learn the skills needed to thrive in today's technology-driven law practice.[4]

This chapter proposes that every law school should offer its students an option to take an Apps 4 Justice Clinic.[5] Such a clinical course can deliver essential education for students entering a technology rich law practice and simultaneously improve our legal services delivery system for the poor.

Two Models of Self Sustaining Transformative Change

The success of two modest grant initiatives points to a strategy that can deliver significant new resources to address these gaping holes in legal education and the fabric of the justice system.

- In the late 1960s through the late 1970s, a Ford Foundation grant program stimulated the creation of law school clinics that today make a significant, continuing contribution to civil legal aid.

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[3]*See, for example*, Association of Corporate Counsel: "The Legal Industry Is Changing: The ACC Value Challenge offers proven tools and tips to help you save time and money while increasing your value to senior management." http://www.acc.com/valuechallenge/index.cfm, last viewed, Dec 14, 2010.

[4]*See*, Brock Rutter, Survey of Existing Courses in Lawyer Use of Technology, Chapter __, *infra.*

[5]Apps 4 Justice Clinics are defined here to include all courses in which law students receive credit for writing applications to be used by lawyers, their assistants or the public seeking justice within our legal system. Such applications can include online lessons, A2J Guided Interviews, document assembly templates, smart telephone apps or any other similar tool or resource.

- In the past 10 years the Legal Services Corporation has administered a Technology Initiative Grant (TIG) program that has helped legal aid programs to develop powerful new delivery tools resulting in significant expansion of legal aid to the poor.

This chapter proposes that law schools adopt a modest extension of the clinical curriculum to establish Apps 4 Justice Clinics that will teach law students how to build and deploy new web technologies that will increase access to justice for the poor.

CLEPR's $12 Million Incubates Clinical Legal Education, 1968-1977

Today, clinical education in law schools contributes significant resources to help meet the needs of low-income people for legal services. But this is a relatively recent development. The 5th Biennial Report 1977-78 from the Council on Legal Education for Professional Responsibility (CLEPR) states that in 1969 there were only a handful of law school clinics for credit. Yet by 1979 nearly every law school in the country had such a program. In ten years and with 12 million dollars, CLEPR triggered a sea change in law school structure: from a handful of clinical professors in 1969 to 1400 clinicians by 2000; from mere hundreds of hours of law student work on legal aid in the '60s to millions of such hours in 2000 and every year since.

CLEPR had narrow and focused objectives. Its grants stimulated law schools to establish courses granting law school credit for student work in live client clinics almost always located in or near the law school building. CLEPR's financial and programmatic support helped to create a self-sustaining process that has survived long after CLEPR closed its doors and stopped making grants. Without any continuing CLEPR stimulus, law schools now employ more than 1400 clinical professors whose students deliver legal services to low-income clients. In an essay written in 2002, David Luban calculated that students in U.S. clinical courses produced three million hours of legal services for the poor each year.[6]

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[6] David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 Calif. L. Rev*.*209, 246 n108 (2003)*:* "These assumptions (which are no better than educated

Legal Services Corporation's Technology Initiative Grants (TIG) Create New Technologies that Expand Access to Justice, 2000- 2010

When the Legal Services Corporation (LSC) announced its first TIG grants in 2000, there were very few legal aid programs funded by LSC that used document assembly software. But in the past ten years, the TIG grant program has stimulated the creation of a national support system and a community of legal aid experts who are building document assembly tools for repetitive delivery of simple legal aid services at an increasing rate.

Beginning in 2000, through these targeted TIG grants, LSC stimulated the creation of a comprehensive national electronic infrastructure of statewide websites for legal aid advocates and the public. Those same technology grants helped to establish a national document assembly server called NPADO[7] and a trained cohort of legal aid authors who are building high quality web-based tools for delivering repetitive legal services to low-income people.[8] Funds from LSC and the State Justice Institute supported the creation of A2J Author, software that makes it feasible for non-technical legal aid lawyers to write web applications for low-income people.[9]

The TIG successes have been tracked and there are very large gains in the use of document assembly software to prepare court forms and other client documents. In 2005, after the basic infrastructure was in place and a small group of legal aid

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guesses), imply 7,500 clinical students per semester, each contributing 200 hours of indigent representation, for a total of 1.5 million hours, or three million hours in an academic year."

[7] National Legal Services Document Assembly Server is managed by ProBono.net, a New York not-for-profit corporation that also provides web hosting services to 30 statewide legal aid web sites. The NPADO server, recently renamed Law Help Interactive, is available at https://lawhelpinteractive.org/.

[8] LexisNexis contributed HotDocs software for the national server and authoring software for each state's website team. HotDocs, Inc., now the owner of the HotDocs business, continues to make this contribution.

[9] *See*, Ronald W. Staudt, *All the Wild Possibilities: Technology that Attacks Barriers to Access to Justice,* 42 Loyola L. A. Law Rev. 1117 (2009).

technologists had been freed to build automated tools for their clients, 32,000 interviews were hosted on the national server. In 2009 the number of interviews grew to more than 263,000. This growth in use and effectiveness is just the beginning. Since NPADO's inception in 2005, there have been 500,000 customer interviews and 300,000 documents assembled for users.

These successes are impressive and they demonstrate the feasibility of improving access to justice for low-income people using Hot Docs and A2J Author software. Despite the large numbers of interviews and completed documents, most of the country has not adopted this approach. Most states and most areas of need have not yet been addressed. Thousands of templates and A2J Guided interviews are needed to fully implement this solution. Even if fully implemented, like painting the Golden Gate Bridge, each template and A2J Guided Interview must be reviewed periodically and maintained to keep current. There are decades of useful and challenging work to do to get the most advantage out of this technology to increase access to justice for the poor. Apps 4 Justice Clinics offer an advantageous way to amass the resources to build out the needed technology for low-income people and maintain that technology over the long term.

Apps 4 Justice Clinics will Educate Law Students for Today's Law Practice and Deliver a Technology Powered Boost to the Legal Services Delivery System.

The success of the TIG funded projects has laid the foundation for a new law school initiative directed explicitly at delivering more extensive access to justice for low-income people.[10] Law students can be taught to write and deploy advanced

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[10]At a Workshop held at Chicago-Kent College of Law in June 2006 experts from legal aid, the courts and law schools examined a variety of models for bringing law students into the legal aid delivery system in a more effective way. For a full description of the results of the June 2006 Workshop and a list of the experts who attended, see, Ronald W. Staudt**,** *White Paper Leveraging Law Students and Technology To Meet the Legal Needs of Low-Income People*,

technology that uses statewide websites as platforms for 24/7 service delivery to low-income people. While learning these tools, law students will be able to contribute to legal aid websites as authors, programmers and editors. The best setting for this "learning by doing" is within a traditional law school clinic under the supervision of an experienced clinical educator. Skills learned by students in such "Apps 4 Justice Clinics" can be used for a variety of legal services, including fee-based practices aimed at moderate income clients and emerging large firm practice systems triggered by fixed fee billing models now demanded by corporate clients. This model fits the historical pattern of the CLEPR successes of thirty years ago focused on establishing a permanent teaching cadre by increasing the availability of course credit for practical instruction aimed at real client problems.

Extended Example of a Successful Apps 4 Justice Clinic: Justice & Technology Practicum at Chicago-Kent

In the fall 2010 semester, the author taught an Apps 4 Justice Clinic for the first time at Chicago-Kent College of Law. The new course, Justice and Technology Practicum, was a hybrid classroom and clinical offering.[11] The objective of the course was to teach perspectives and skills on justice and technology while building useful web resources to improve access to justice. For the first half of the semester students worked through a modest list of assigned readings. Students met for a two-hour class each week to discuss and analyze those readings. During the second half of the semester, classes were devoted to instruction in the use of the software for building templates and A2J Guided Interviews, group work on projects and peer review of student performances.

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https://www.abanet.org/legalservices/ejc/docs/white_paper_leveraging_law_students_wsr_084.pdf (last viewed June 27, 2007.)

[11] The web site supporting Justice and Technology Practicum for fall, 2010 contains the syllabus, course description and links to collaboration tools that students used to communicate outside of class. http://www.kentlaw.edu/faculty/rstaudt/classes/justicetech_fall2010/index.htm ,last viewed, December 18, 2010.

In addition to class attendance and readings all students were required to conduct field observations of potential customers and to produce three written performances. Field observations put students in direct contact with self-represented litigants seeking access to justice in local courts. The largest Illinois court house and the court building closest to Chicago-Kent is Cook County's Daley Center. Students observed and helped self-represented litigants at the Daley Center for at least 20 hours during the first four weeks of the course. This work provided an experiential context for the legal research and software development that was at the center of the practicum. Observing self-represented litigants at the Daley Center helped students to understand their justice customers better and also to experience the practical legal environment in Chicago.[12]

The practicum was structured to prepare students to build a document assembly product that will assist self-represented litigants in achieving their justice goals. In partnership with Illinois Legal Aid Online, each student planned and built a HotDocs template and an A2J Author Guided Interview for posting on the Illinois Legal Aid Online public web site.[13] To accomplish this objective, students completed three written performances as follows:

1. **Project Scope Document and Research Memorandum:** The scope document is the initial planning document that underlies the creation process for a specific court form. The purposes of the document are to define the boundaries of the project, to identify the specific customers that the project will serve and to specify the exact legal needs the finished product will address. The scope document also identifies the legal and practical targets for investigation and research. In the research memorandum, students focus on the justice problem facing self-represented litigants. The memorandum serves as an audit trail explaining the law, procedure and other possibly undocumented information that might be helpful to a pro-se litigant using the proposed form.

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[12] Ronald W. Staudt, *Technology for Justice Customers: Bridging the digital divide facing Self-represented Litigants*, 5 U. Md. L.J. Race, Religion, Gender and Class 71 (2005).
[13] See, Illinois Legal Aid Online, http://www.illinoislegalaid.org/ , last viewed December 18, 2010.

2.   **Storyboard:**   The storyboard is a graphical flowchart of the customer interview designed to make the interview efficient and as intuitive as possible for the customer. Students also focus here on using the appropriate wording, terminology, and learning links for each screen of the interview. The language and sentence structure for each screen of the interview is targeted at a 5th grade reading level.

3.   **HotDocs and A2J Author Development:** Using the storyboard as a reference, students write a HotDocs template and an associated A2J Guided Interview. Each step of the Guided Interview should be designed to be easy for end-users to complete and to provide all just-in-time learning that the customer will need to understand the interview.

When students in the practicum completed the required HotDocs templates and A2J Guided Interviews, they exchanged their work product with another student for peer review. There were four additional reviewers during the course: Mary Neal, the Automated Document Manager at Illinois Legal Aid Online, Jason Dirkx, a skilled teaching assistant, Dina Nikitaides, the project coordinator of the Center for Access to Justice and Technology and the author. All four reviewers read each submission, provided feedback and helped to guide revisions and improvements.

The first offering of the practicum in fall 2010 was a success. Every student wrote a working HotDocs template and A2J Guided Interview. The student work product was not ready for publishing on Illinois Legal Aid Online, but the work was 80% done and ready for final editing. The student evaluations of the course were outstanding. Every student reported that they found the course challenging and rewarding and eye-opening. Most of the students who enrolled in the first course signed up to take an advanced version of the practicum in 2011 to complete work on their projects and tackle more advanced forms.

Apps 4 Justice Clinics Offer Powerful and Relevant Legal Education

Apps 4 Justice Clinics like the Chicago-Kent Practicum deliver powerful education to students in relevant skills and competencies.[14] Each student project requires thorough and exhaustive research into the substantive and procedural law that applies to use of the court form or other justice objective. Like other live clinics, Apps 4 Justice Clinics also expose students to the heuristics of local practice. Students learn how to actually get things done in the local courts. Apps 4 Justice Clinics also expose law students to emerging ethical issues about confidentiality, unbundling and cloud computing that face lawyers who adopt technology to improve the delivery of legal services.

Perhaps the most important competency is the ability to think systematically about the law. Planning and building a template and A2J Guided Interview to help self-represented litigants to prepare a court form or other document demand a different kind of problem solving approach than the work of representing a single such client. This systematic problem solving is a key competency in reducing costs and improving effectiveness of all repetitive work of lawyers, from legal aid to large multinational firms. New career paths for lawyers are emerging in elite law firms in knowledge management, discovery management, practice systems development and even productivity systems like Six Sigma. These new careers will demand the ability to think like a lawyer and the ability to think systematically.[15]

Blueprint to Unleash the Educational Power and Justice Benefits of Apps 4 Justice Clinics

Following the CLEPR model, a new partnership between law schools and legal aid centered on building and deploying technology tools to increase access to justice would include a multiyear commitment with the following components:

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[14] See Rutter, supra at Note 3 for a description of similar courses at a number of law schools.

[15] For an example of such a career and a guide to some of the tools used by lawyers to introduce systematic thinking into their law practices, see, Marc Lauritsen, *The Lawyer's Guide to Working Smarter with Knowledge Tools*, American Bar Association (2010).

1. Starter grants to 5-10 schools to pilot this new curriculum, to test methods, to explore partnerships with local legal aid web site managers, to measure results and to report on the process.

2. Grants to build course materials, starter kits and online interactive systems to support the instruction. Distance learning infrastructure and richer versions of both A2J Author.org and the HotDocs web tools are needed to make the instructors comfortable and effective.

3. Funds to market this concept and the teaching resources to law school deans, clinicians, legal writing faculty and skills professors, including surveys of the target faculty groups, small regional workshops to build enthusiasm and awareness and one or two national gatherings, perhaps in conjunction with AALS or ABA.

4. Once validated at the pilot schools, matching grants to law schools to hire teaching staff, probably adjunct professors at first, to offer Apps 4 Justice Clinics that include student instruction in, and use of, document assembly tools for deployment on legal aid statewide web sites for low-income people. These grants would require law schools to offer credit for this learning experience and would require that the student product be targeted for use by real people seeking justice.

5. Funds to maintain a matching service that would ensure that students are able to work on projects that are needed and those in need of authoring and software development have the trained law student resources they need to build effective online systems for low-income customers. Boston has thousands of law students, Alaska, none.

6. Aggressive evaluation and study of the document assembly templates and A2J Author Guided Interviews as they touch end users and the courses as law students work through the early educational experiences. We need much better metrics about the impact in the courthouse of the online systems that are already in place and constant assessment of new systems deployed through this curriculum. Also, the curriculum and the student learning successes and failures should be studied.

7. Funds will be needed to ensure that the software, A2J author and HotDocs, remain available to the students and to the legal aid and court communities. Some of this funding is already flowing from the State Justice Institute and the Legal Services Corporation but a larger infrastructure and a larger national center to support all the new initiatives will be necessary.

Conclusion

CLEPR spent twelve million dollars from 1968 to 1978 that now produces an annual stream of three million law student hours devoted to legal aid, with no end in sight. LSC and the State Justice Institute have established a technology platform that produced five hundred thousand interviews and three hundred thousand documents, a service delivery system that is sure to continue to grow far beyond the start-up period. A staged investment of a similar scale to stimulate the creation of Apps 4 Justice Clinics at all law schools will deliver a continuing source of powerful legal education in essential professional competencies for law students by using emerging technology to deliver dramatic results for improving justice.