

SOCIAL JUSTICE EXTERNSHIP REPORT

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PREFACE

This Report is the result of work completed during the Law Foundation of Ontario's (LFO) Community Leadership in Justice Fellowship (Fellowship). The Fellowship lasted approximately one year.¹ My primary aim with the Fellowship was to develop a framework for a social justice legal externship program. I hope Windsor Law will find this Social Justice Externship Report (Report) useful as it continues to build on its rich history of innovative, justice-based approaches to experiential legal education.

This Fellowship has provided me with a unique opportunity to draw on, and deepen, my thinking and practice in both law and social work. Many of the themes in this Report reflect ideas and themes that I have been grappling with for several years. Specifically, I am interested in exploring the role that social justice plays in shaping law and social work, both as professions and as disciplines. The impetus for this project arose from a Poverty and Social Policy Externship Pilot that Windsor Law and Pathway to Potential (P2P) initiated collaboratively in May 2014 through the support of the University of Windsor's Strategic Priority Fund.²

I graduated from Windsor Law with an LL.B. in 2002, from Osgoode Hall with an LL.M. in 2004 and obtained a MSW from the University of Windsor in 2008. In early 2009, I was hired to coordinate P2P, the official poverty reduction strategy for Windsor-Essex. Since 2013, I have taught annually as a sessional instructor for *Theory and Practice of Social Work and the Law*, a course offered through the MSW/JD Program at the University of Windsor. These experiences have deepened my knowledge and practice of community-engaged pedagogy applied to an antipoverty context. I bring these insights and my deep commitment to systemic antipoverty advocacy approaches to bear in this Report. One of the many privileges of my role at P2P has been working with University of Windsor (U of W) students across a number of disciplines.³ Students at P2P frequently cite the collaborative, interdisciplinary learning and working environment as contributing to their professional growth, and I regularly credit students for making important contributions to my evolution as a community practitioner.

I think law schools can and should do more to cultivate the social justice aspirations that drive so many law students to apply in the first place. Social justice opportunities should not be limited to poverty law clinics or the occasional course from a "radical" professor, but rather should be integrated throughout the curriculum. A social justice externship program could be an important vehicle through which to accelerate such integration. I envision a future where law students increasingly become awakened (or, perhaps, reawakened) by the possibilities of social justice lawyering, with all of the challenges and benefits that come with working alongside communities to support them in building power to effect lasting social change.

¹ The original proposal was for an eight-month Fellowship. From September through December 2014, I spent two days per week at Windsor Law and three days per week at P2P. From January through April 2015, I spent three days per week at Windsor Law and two days per week at P2P. In May 2015 I went back to P2P full time, but requested an extension through November 2 in order to hold a culminating workshop in the fall semester.

² The Poverty and Social Policy Externship Pilot will be discussed in more detail in Part III, and the full report on the Pilot can be found in Appendix 1.

³ Over the years, P2P has engaged with students from such areas as Applied Social Psychology, Business, Communications, Education, Law, Nursing, Political Science and Sociology.

INTRODUCTION

More than 75,000 – about 1 in 5 – people live in poverty in Windsor-Essex.⁴ The mandate of P2P is to reduce and prevent poverty in Windsor-Essex through advocacy, research and education. Some have termed poverty a “wicked problem” because it has no single root cause and involves many intersecting barriers that demand intersecting interventions.⁵ My experience with P2P has provided me with a unique opportunity to engage in systemic antipoverty advocacy. In social work terms, this type of work is understood as “macro” or “indirect” practice. In law terms, this work might be thought of as “social justice,” “democratic” or “collaborative” lawyering.⁶ Our region’s persistently high incidence of poverty, unemployment and other related socioeconomic issues makes this a particularly opportune time to create more space and support for systemic antipoverty advocacy in law and social work.

After spending the year researching, speaking with students and faculty, conducting surveys, and reflecting, it is clear that Windsor Law, like many law schools across North America, is facing what might be termed an “existential crisis” due to significant changes in the dynamics between legal education and the legal profession. The Federation of Canadian Law Societies has mandated competencies in all common law schools, which has increased the number of mandatory courses, giving students and faculties fewer creative credit options.⁷ The “articling crisis,” while not as great in scope in Canada as in the United States, has still affected the number of students securing articles.⁸ Access to justice has become a rallying cry for changes in the delivery of legal services and in the very nature of justice itself in Canada.⁹ The social context within which law operates has also shifted significantly. Recent events around the globe have underscored the urgency for law schools to face this transition head on. As social and political movements such as the Arab Spring, Occupy and Idle No More continue to resonate in different ways, new movements – such as campaigns led by low-wage workers in North America – sprout up in response to increasing inequality and precarious work, which are two of the hallmarks of the neoliberal austerity agenda.

Neoliberalism has also created harsh and unsustainable conditions on the campuses of post-secondary institutions, and especially professional schools such as law schools. Many students face soaring tuition fees, huge debts, and the prospect of an unforgiving labour market upon graduation. The increasing corporatization of universities belies the frequent public relations claims about an enhanced “student experience” and contributions to improved quality of life for the broader community. For many university students and staff, poverty is not merely a theoretical issue but a lived reality that is underscored by the ubiquity of the campus food bank.

These realities compel us to think critically and creatively about the role law schools can and should play in advancing social justice. Many social justice lawyers and theorists have offered critical appraisals of the formal legal system’s potential to redress the systemic underpinnings of poverty and other pressing socioeconomic issues.¹⁰ Yet, for too long, mainstream legal education’s allegiance to a disembodied case dialogue method that perpetuates the hierarchical lawyer-client relationship has pushed these social justice perspectives to the margins.

⁴ Based on after tax Low Income Measure (LIM) from 2011 taxfiler data. Data Tables produced by the Canadian Council on Social Development (ccsd.ca) Community Analytics Service using data available from its Community Data Program (communitydata.ca).

⁵ See e.g. Jon Kolko, *Wicked Problems: Problems Worth Solving* (Austin: Austin Centre for Design, 2012).

⁶ These terms and related concepts will be discussed in more detail throughout the Report.

⁷ Federation of Canadian Law Societies, *Common Law Degree Implementation Committee Final Report* (2011), online: <<http://flsc.ca/wp-content/uploads/2014/10/APPROVALCommitteeFinalReport2011.pdf>>.

⁸ Law Society of Upper Canada, *Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario* (2012), online: <<http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848>>.

⁹ See e.g. Trevor C W Farrow, “What is Access to Justice?” (2014) 51:3 Osgoode Hall LJ 957.

¹⁰ I will elaborate on this in Part I.

Given the challenges facing great numbers of Canadians experiencing sociolegal problems, there is a strong case to be made for a deeper commitment to social justice lawyering within legal education and the profession. As the Canadian Bar Association's (CBA) *Reaching Equal Justice: An Invitation to Envision and Act* notes, "Justice is more than what is happening inside the justice system. Justice is about what is happening at home, at schools, at workplaces and on the street. A just society is foundational to an effective, fair justice system."¹¹ It is encouraging that mainstream notions of access to justice – i.e., a focus solely on making the formal legal system more accessible for those on the margins – are increasingly being challenged. Patricia Hughes, for example, argues that we must go beyond strictly legalistic notions of access to justice and embrace a broad conception of access to justice that includes multiple disciplines and perspectives, with attention to how law can be used to advance or impede social and economic justice.¹² Trevor Farrow's recent work summarizes the explosion of literature in Canada and elsewhere that includes the voices of members of traditionally neglected communities.¹³ This call for an expansive view of justice demands a more holistic approach to lawyering that better responds to a broad range of systemic injustices.

Given Windsor Law's long-held access to justice focus,¹⁴ range of existing experiential education opportunities for students, and commitment to deepening its theoretical and institutional links with social work,¹⁵ it is well positioned to be a leader among Canadian law schools in responding to many of the challenges identified in *Reaching Equal Justice*.¹⁶ Windsor Law also has met some of the recommended access to justice goals laid out in the CBA's *Futures Report* on legal education, and is well placed to follow up on others.¹⁷ Of particular note for the purpose of this Report, Windsor Law has committed to expanding experiential education opportunities for law students, particularly place-based opportunities in which students assume the role of lawyer or legal professional. While Windsor Law has several opportunities for such placements, including clerkship placements in various courts across Ontario, there are few for-credit placements with an explicit social justice mission.

In this Report, I outline the theoretical background for, and key elements of, a social justice externship program that I believe aligns well with the mission and vision of Windsor Law. Part I draws on law and social work scholarship to identify tensions and points of convergence within and between these professions and disciplines. Conceptions of access to justice in law and social justice in social work are explored, with particular attention to the constraints imposed by neoliberalism. Part II delves into the literature on legal externships, which has recently produced important findings and best practices that will serve as a foundation for the proposed Social Justice Externship Program. As the reader will note, externship programs are highly developed across some American law schools, and are beginning to emerge in Canada. Part III highlights the results from two recent

¹¹ Canadian Bar Association, *Reaching Equal Justice: An Invitation to Envision and Act* (Ottawa: Canadian Bar Association, November 2013) at 23, <online: http://www.cba.org/cba/equaljustice/secure_pdf/Equal-Justice-Summary-Report-eng.pdf> [CBA, *Reaching Equal Justice*].

¹² See e.g. Patricia Hughes, "Law Commissions and Access To Justice What Justice Should We Be Talking About" (2008) 46 Osgoode Hall LJ 773.

¹³ *Supra* note 9.

¹⁴ Annette Demers, "A History of the University of Windsor Faculty of Law", (2008), <online: http://www.uwindsor.ca/law/library/sites/uwindsor.ca.law.library/files/faculty_bibliography_final_with_appendixes_included_0.pdf>. As Demers notes, Windsor Law was the first to introduce the theme of Access to Justice in its mission and the first to introduce a mandatory, first year course in the subject.

¹⁵ Legal Assistance of Windsor (L.A.W.), a community based clinical learning project of Windsor Law, employs both lawyers and social workers. Windsor Law's MSW/JD program is unique in Canada in that it offers integrated courses in law and social work.

¹⁶ Canadian Bar Association, "Reaching Equal Justice: Balancing the Scales" (2013), <online: http://www.cba.org/cba/equaljustice/secure_pdf/Equal-Justice-Summary-Report-eng.pdf>.

¹⁷ Canadian Bar Association, *The Future of Legal Services in Canada: Trends and Issues*, (Ottawa: Canadian Bar Association, 2013), online: <<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/trends-issues-eng.pdf?ext=.pdf>>.

studies on the perceived need for and interest in increased social justice experiential education opportunities at Windsor Law. The first is Professor Gemma Smyth's evaluation of a Poverty and Social Policy Externship Pilot initiative, and the second is my own research into the perspectives of Windsor Law students, faculty and administration, as well as community organizations, on the prospects of a new social justice externship program. Part IV analyzes the results from the two studies and the relevant literature, and sets out the case for a social justice externship program at Windsor Law. Part V summarizes the Report's key recommendations, which are drawn from best practices in experiential legal education, and in some cases adapted to fit the Windsor Law context.

PART I: LAW, SOCIAL WORK AND SOCIAL JUSTICE

Interprofessional and Interdisciplinary Approaches in Law and Social Work

Because of the nature of law and social work as disciplines, I am interested in exploring, where possible, the merits and feasibility of a social justice externship through an interdisciplinary and interprofessional lens. According to Forgey and Colarossi, “Interdisciplinary is often considered to be knowledge of two or more disciplines’ theories, research, and practices, which can be obtained through education across disciplines (with or without obtaining a joint degree). Interprofessional is often considered to be the actual collaborative practice involving persons from different disciplines or professions.”¹⁸ The benefits of interdisciplinary and interprofessional work for students can include diverse understandings of social phenomena, critical and comparative approaches to complex problems, and increased critical thinking and problem solving skills.¹⁹ There has been a longstanding scholarly interest in the interaction of law and social work. In 1927, sociologist Roscoe Pound, decrying lawyers for not doing enough to advance “preventive justice,” called for the “fullest team play between law and social work,” noting that “the lawyer must study and learn how to utilize” social work techniques and methodologies.²⁰

Many of the recent writings on law and social work from an interdisciplinary and interprofessional perspective have focused on how social work theories, values and approaches could benefit law students, lawyers and judges.²¹ Many of these perspectives grow out of the Comprehensive Law movement, including the Therapeutic Jurisprudence (TJ) movement,²² which draws on mental health related disciplines to explore the reasons why, and conditions under which, law serves both therapeutic and non-therapeutic ends.²³ This generally involves analyzing legal outcomes with a particular focus on the dynamics of the relationships between the various actors involved in the legal process. While TJ does not advocate that law attend solely to therapeutic endeavours, it is interested in how the practice of law can be transformed from an activity that is competitive, confrontational, and detached, to one that is “humane, therapeutic, beneficial, humanistic, healing, restorative, curative, collaborative, and comprehensive.”²⁴

This has led some to draw parallels between TJ’s aspiration for more therapeutic lawyering and the social work profession’s generalist approach, which dictates that social workers develop a broad range of skills, values, and knowledge in order to assist people to address issues in a comprehensive way.²⁵ This is but one approach in which academics and practitioners have drawn

¹⁸ Mary Ann Forgey & Lisa Colarossi, “Interdisciplinary Social Work and Law: A Model Domestic Violence Curriculum” (2003) 39 J of Soc Work Ed 459 at 463.

¹⁹ Rose Voyvodic & Mary Medcalf, “Advancing Social Justice through an Interdisciplinary Approach to Clinical Legal Education: The Case of Legal Assistance of Windsor” (2004) 14 Wash UJL & Pol’y 101.

²⁰ Roscoe Pound, “Law and Social Work” (1927-1928) 3 Ind. LJ 183 at 193.

²¹ See e.g. Jane H Aiken & Stephen Wizner, “Law as Social Work” (2003) 11 Wash UJL & Pol’y 63.

²² TJ is one of ten “vectors” in the comprehensive law movement; the other nine are preventive law, procedural justice, restorative justice, facilitative mediation, transformative mediation, holistic law, collaborative law, creative problem solving, and specialized courts. See Susan Daicoff, “The role of therapeutic jurisprudence within the comprehensive law Movement” in Dennis P Stolle, David B Wexler, & Bruce J Winick, eds. *Practicing Therapeutic Jurisprudence: Law as a Healing Profession* (Durham, NC: Carolina Academic Press: 2000) 465.

²³ For an introduction to TJ, see David B Wexler & Bruce J Winick, eds, *Essays in Therapeutic Jurisprudence* (Durham, NC: Carolina Academic Press, 1991).

²⁴ *Supra* note 22 at 465.

²⁵ Susan Brooks, “Using Social Work Constructs in the Practice of Law” in Marjorie A Silver, ed, *The Affective Assistance of Counsel* (Durham, NC: Carolina Academic Press, 2007) 53; Carolyn Copps Hartley & Carrie J Petrucci, “Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration between Social Work and Law”

useful parallels and lessons between law and social work as disciplines and professions. Further examples are explored throughout this Report.

Given that the legal profession has faced criticism for producing practitioners who often seem detached and lacking empathy, there is no denying that social work – as well as other professions – could offer useful resources for enhancing lawyers’ competencies in this area, as well as larger and deeper conceptions of law and justice in micro and macro contexts. While there is merit in focusing on how to improve the quality of the encounters between individuals and the formal legal system, my concern in this Report is exploring how interdisciplinary approaches can advance social justice.

The Social Justice Imperative in the Neoliberal Era

Law and social work have different ways of approaching the definition and practice of social justice. Social work codes of ethics refer specifically to the term “social justice” in many instances. The preamble of the Canadian Association of Social Workers’ (CASW) *Code of Ethics* states that the “profession has a particular interest in the needs and empowerment of people who are vulnerable, oppressed, and/or living in poverty.”²⁶ The *Code* also lists the “pursuit of social justice” as one of the profession’s six core values and principles, stating that “[s]ocial workers promote social fairness and the equitable distribution of resources, and act to reduce barriers and expand choice for all persons, with special regard for those who are marginalized, disadvantaged, vulnerable, and/or have exceptional needs.”²⁷ While the CASW *Code* does not explicitly define social justice, its principles make the profession’s vision of “social justice” fairly clear.²⁸ Still, the 2005 *Code* has drawn sharp criticism from Bob Mullaly for adopting a “liberal-humanist” approach that, when compared with the 1994 *Code* it replaced, represents a concerning retreat from the professional’s historical prioritization of social justice.²⁹

The Law Society and Canadian Bar Association’s Model Codes make no specific reference to “social justice,” but many to references to “justice,” creating fertile ground for intense struggles over the moral and ethical underpinnings of the legal profession and the implications for the meaning of lawyering. Since the 1960s, the notion of “access to justice” has been a popular concept to capture a range of challenges in the law and legal profession. Rod Macdonald identified several stages, or “waves of thinking,” around access to justice: in the 1960s, or first wave, the primary emphasis was on procedural attempts to increase access to lawyers and the courts, based on recognition that legal institutions were inaccessible to people with low income; during the second wave, the focus was on institutional reform of courts and processes, and rethinking access as a public problem, which led to the proliferation of tribunals and administrative agencies, class actions, and no fault auto insurance; with the inception of the *Canadian Charter of Rights and Freedoms* in 1982, the emphasis in the third wave turned to access to substantive and procedural equality; the fourth wave was marked by innovative thinking in preventative law, including global activism around sites of law creation, and; in the fifth wave, the prevailing view is that “access to justice implies a concern with

(2004) 14 Wash UJL Pol’y 133; Robert G Madden & Raymie H Wayne, “Social Work and the Law: A Therapeutic Jurisprudence Perspective” (2003) 48:3 Social Work 338.

²⁶ Canadian Association of Social Workers, *Code of Ethics* (Toronto: CASW, 2005) at 5.

²⁷ *Ibid.*

²⁸ *Ibid* at 4: “Social workers uphold the right of people to have access to resources to meet basic human needs”; “Social workers advocate for fair and equitable access to public services and benefits”; “Social workers advocate for equal treatment and protection under the law and challenge injustices, especially injustices that affect the vulnerable and disadvantaged”; “Social workers promote social development and environmental management in the interests of all people.”

²⁹ Bob Mullaly, “Forward to the Past: The 2005 CASW Code of Ethics” (2006) 23:1-2 Can Soc W Rev 145.

every facet of the social life of citizens,” which can only be properly met by multidisciplinary interventions and collaborations.³⁰

Others, advancing a poststructuralist critique, have questioned the possibility of justice being achieved through the modern legal structure. Conklin, for instance, writes that “[a]ccess to justice has been an access to the lawyer’s language which conceals the bodily meanings which the non-knower brings into her/his signs. ... [I]t is about time that we began to retrieve the experiential meanings which such a structure and its language conceal.”³¹ In another piece, he writes that, “justice goes to the alleviation of the suffering of an other whom the law of the modern state conceals. This justice is not external to the legal order. Justice dwells as a potential within the law of a modern state. Justice is concealed, hidden, sublimated.”³² In his deconstruction of Kafka’s *The Castle*, Derrida famously argued that “justice is not the law,” but rather it is “what gives us the impulse, the drive, or the movement to improve the law, that is, to deconstruct the law.”³³

Many have questioned law’s potential to consistently produce socially just outcomes. Stanley Fish, critiquing the formalist tradition, states: “The law wishes to have a formal existence... [T]he law does not wish to be absorbed by, or declared subordinate to, some other – nonlegal – structure of concern.”³⁴ In *Left Legalism / Left Critique*, Janet Halley and Wendy Brown contend that a preoccupation with law reform strategies, if not accompanied by healthy critique, reinforces the assumption that the law and the state are technically neutral and that equal rights are equivalent to equality.³⁵ They note that narratives surrounding prominent social movements, such as the black civil rights movement in the 1960s, have reinforced a view that there is something inherently progressive about rights-based approaches.³⁶ In reality, they argue, “the left’ has no ‘natural’ relationship to the legalism of rights. One reason for this is that rights cannot be fully saturated with the aims that animate their deployment. For all the content they may be given by their location in liberal orders, they retain a certain formality and emptiness which allow them to be deployed and redeployed by different political contestants.”³⁷ These internal tensions within law, as we will see, bear resemblance to current challenges facing the social work profession.

The relationship between law and social work has been written about from multiple perspectives, including the need for greater interprofessional understanding,³⁸ increasing lawyers’ familiarity with psychological aspects of clients’ behaviour,³⁹ and incorporating social work’s empowerment approach into lawyers’ rules of professional conduct.⁴⁰ Here, we need to be clear about what type of social work orientation we hope will influence law. I see merit in drawing on social work theory and practice to train lawyers to be more compassionate, empathetic and emotionally intelligent. Yet, if we are interested in advancing social justice, we must make a realistic assessment of the social work profession’s potential in this area.

³⁰ Roderick A Macdonald, “Access to Justice in Canada Today: Scope, Scale and Ambitions” in Julia Bass, W A Bogart & Frederick H Zemans, eds, *Access to Justice for a New Century – The Way Forward* (Toronto: LSUC, 2005) 19.

³¹ William E Conklin, “Whither Justice? The Common Problematic of Five Models of ‘Access to Justice’” (2001) 19 Windsor YB Access Just 297 at 316.

³² William E Conklin, “Teaching Critically Within a Modern Legal Genre” (1993) 8 CJLS 33 at 36.

³³ John Caputo, ed, with commentary, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida* (New York: Fordham University Press, 1997) at 16.

³⁴ Stanley Fish, “The Law Wishes to Have a Formal Existence” in Stanley Fish, ed, *There’s No Such Thing as Free Speech and it’s a Good Thing, Too* (New York: Oxford University Press, 1994) 141.

³⁵ Wendy Brown & Janet Halley, “Introduction” in Wendy Brown & Janet Halley, eds, *Left Legalism/Left Critique* (Durham, NC: Duke University Press, 2002) 1.

³⁶ *Ibid* at 8-9.

³⁷ *Ibid* at 9.

³⁸ Sarah Taylor, “Educating future practitioners of social work and law: Exploring the origins of inter-professional misunderstanding” (2006) 28(6) Children & Youth Services Rev 638.

³⁹ Copps Hartley & Petrucci, *supra* note 24.

⁴⁰ Spencer Rand, “Teaching Law Students to Practice Social Justice: An Interdisciplinary Search for Help through Social Work’s Empowerment Approach” (2006) 13 Clinical L Rev 459.

To make this assessment, we need to first discuss the role of neoliberalism in shaping law and social work. As Wendy Brown has written, while neoliberalism is sometimes narrowly characterized as a cluster of economic policies resembling classic liberalism, it is actually a much more pervasive process in which market values are extended to all areas of social and political life.⁴¹ According to Brown, neoliberal political rationality has four primary characteristics.⁴² First, all aspects of human life are measured according to the market rationality of profitability, which is actively promoted through the development of discursive practices, policies, and institutions. Second, neoliberalism conceives of the market as a legal and political construction that requires intervention and direction. The legitimacy of the state is contingent on the extent to which it successfully responds to the needs of the market. Further, the state is concerned not merely with promoting profitability, but rather submits all of its practices, including law, to a cost-benefit calculation. Third, as with the state, the individual within neoliberalism is reduced to a market actor in every dimension of life. This entrepreneurial citizen's ability to care for his or her self becomes the measure of moral autonomy. "The model neo-liberal citizen is one who strategizes for her/himself among various social, political and economic options, not one who strives with others to alter or organize these options."⁴³ Here, the state is once again active, using social policy to continually construct this notion of subjectivity. The all-encompassing nature of the entrepreneurial actor's freedom, and thus responsibility, serves as justification for the state employing a technique of governing that includes withdrawing from certain spheres. Fourth, the criteria for social policy are severely circumscribed when market rationality operates as the driving force behind the state and the individual.⁴⁴

In his article "Neoliberalism as Creative Destruction," David Harvey suggests that despite the inconsistencies in its development and application across the globe, neoliberalism has "become hegemonic as a mode of discourse and has pervasive effects on ways of thought and political-economic practices to the point where it has become incorporated into the commonsense way we interpret, live in, and understand the world."⁴⁵ This hegemony has been achieved in large measure through neoliberalism relying heavily on two widely appealing concepts at the heart of the liberal tradition – freedom and individual liberty – and relentlessly advancing the argument that the attainment of these is contingent on economic freedom.⁴⁶

The rise of neoliberalism has led to a diffusion of resistance movements and strategies on the left, which has implications for how "social justice" is understood. Harvey argues the left of the early 1970s was animated by a positive notion of social justice, and a genuine belief that radical social transformation was imminent, whereas the current left, given that many people believe "there is no alternative to things as they are," often feels compelled to focus on various forms of injustice.⁴⁷ Social justice, in other words, is more about "trying to awaken thoughts rather than complete them."⁴⁸ Wendy Brown argues that the left must move beyond its attachment to its impossibility, as this reflects a lingering sentimentalization of the left of the late 1960s that actually becomes a form of conservatism inasmuch as this thinking fails to adequately contextualize the challenges and complexities of the current socio-political moment.⁴⁹ If the left does not recognize the new visions necessitated by the existing world – as opposed to a world several decades earlier – it risks remaining conservative. Here, Brown conjures Walter Benjamin's concept of "left

⁴¹ Wendy Brown, "Neoliberalism and the End of Liberal Democracy" (2003) 7 *Theory & Event* at para 2.

⁴² *Ibid* at para 9-13.

⁴³ *Ibid* at para 15.

⁴⁴ *Ibid* at para 16-18.

⁴⁵ David Harvey, "Neoliberalism as Creative Destruction" (2007) 610 *Annals, AAPSS* 22 at 23.

⁴⁶ *Ibid* at 24.

⁴⁷ Stephen Pender, "An Interview with David Harvey" (2007) 1:1 *Studies in Social Justice* 14 at 15.

⁴⁸ *Ibid*.

⁴⁹ Wendy Brown, "Resisting Left Melancholy" (1999) 26:3 *boundary* 2 19.

melancholy,” the name given to “a mournful, conservative, backward-looking attachment to a feeling, analysis, or relationship that has been rendered thinglike and frozen in the heart of the putative leftist.”⁵⁰

Harvey describes the necessarily diverse social movement responses to the complex neoliberal practices of accumulation by dispossession.

Some seek to de-link wholly or partially from the overwhelming powers of neoliberalism and neoconservatism. Others seek global social and environmental justice by reform or dissolution of powerful institutions such as the IMF, the WTO, and the World Bank. Still others emphasize a reclaiming of the commons, thereby signalling deep continuities with struggles of long ago as well as with struggles waged throughout the bitter history of colonialism and imperialism. Some envisage a multitude in motion, or a movement within global civil society, to confront the dispersed and de-centered powers of the neoliberal order, while others more modestly look to local experiments with new production and consumption systems animated by different kinds of social relations and ecological practices. There are also those who put their faith in more conventional political party structures with the aim of gaining state power as one step toward global reform of the economic order.⁵¹

Despite the complex forms neoliberalism has taken internationally, Harvey calls for a renewed emphasis on class, however bifurcated, as sites of resistance. “The more neoliberalism is recognized as a failed if not disingenuous and utopian project masking the restoration of class power, the more it lays the basis for a resurgence of mass movements voicing egalitarian political demands, seeking economic justice, fair trade, and greater economic security and democratization”.⁵² In a similar vein, Leo Panitch contends that neoliberalism requires new forms of political solidarity that reflect the shifts in how working classes are constituted.⁵³ As he cautions, we should not underestimate the force of neoliberalism, that is, the “passivity and ignorance which a lifetime of political exclusion and atomization breed”.⁵⁴ Awakening ourselves from neoliberalism’s entrepreneurial citizen dream requires “promoting the capacity for isolated individuals to discover the needs and interests they share with others, then encouraging the formation of collective identities and associations and the development of the institutional means and resources to determine collectively how their needs and interests might be fulfilled.”⁵⁵

As critical social work scholars have argued, the social work profession reinforces the neoliberal paradigm by predominantly responding to structural problems with individual-level interventions;⁵⁶ placing disproportionate emphasis on the biological and psychological, to the exclusion of the sociocultural and spiritual, dimensions of people’s lives,⁵⁷ and; perpetuating the declining interest and activity in the realm of social justice and systemic advocacy.⁵⁸ Saleeby has argued that social work’s disproportionate emphasis on individual pathologies leads to a depersonalized helping relationship, professional pessimism about client capacities, and

⁵⁰ *Ibid* at 22.

⁵¹ *Supra* note 45 at 41-42.

⁵² *Ibid* at 42.

⁵³ Leo Panitch, “Beyond Communism and Social Democracy” (1992) 38 *Studies in Political Economy* 139 at 148.

⁵⁴ *Ibid*.

⁵⁵ *Ibid* at 151.

⁵⁶ Leslie Margolin, *Under the Cover of Kindness: The Invention of Social Work* (Charlottesville, VA: University of Virginia Press, 1997).

⁵⁷ Clay Grabeal, “Strengths-based Social Work Assessment: Transforming the Dominant Paradigm” (2001) 82:3 *Families in Society* 233; Dennis Saleeby, “Introduction: Power in the people” in Dennis Saleeby, ed, *The Strengths Perspective in Social Work Practice*, 4th ed (Toronto: Allyn & Bacon, 2006).

⁵⁸ Margolin, *supra* note 56; Mullaly, *supra* note 29; Harry Specht & Mark E Courtney. *Unfaithful Angels: How Social Work has Abandoned its Mission*. (Toronto: Maxwell Macmillan Canada, 1994).

decontextualizing and oversimplifying the situation.⁵⁹ According to Figueira-McDonough, this has dire implications for social work's ability to truly advance social justice: "If the value of social justice is taken to mean a commitment to ensure equal access for all to basic social goods, then the typical roles of social workers as case managers and therapists fall short of that goal.... Progress toward social justice requires direct involvement in the formation and modification of social policy."⁶⁰ To counteract this tendency, she suggests social workers receive more training in the following four methods of policy practice: legislative advocacy, reform through litigation, social action, and social policy analysis.⁶¹

With the increasing corporatization of universities under neoliberalism, the marginalization of social justice approaches in professional schools is not surprising. In law schools, social justice work is largely relegated to poverty law clinics, which often are treated as the "second-class citizens"⁶² of legal education. Social justice practice in social work, as alluded to earlier, has suffered a similar fate. There is a clear disconnect between the historical image of the social work profession, as inherently oriented toward social justice, and the reality that its interest and activity in the realm of systemic advocacy has been waning since the 1950s, when the profession began to emphasize psychiatric concerns and privilege case management and counselling.⁶³ This shift in trajectory has profoundly shaped the practice preferences of social work students, the majority of whom favour micro-level over macro-level practice,⁶⁴ but these trends must also be viewed against the backdrop of neoliberalism.

Much of micro social work practice occurs within the charitable sector, which has faced significant changes in its relationship with governments in recent years. As Mary Beth Raddon argues, the "new philanthropy" has advanced neoliberalization through governments' tighter regulatory relationship with the charitable sector, policy enabling donors to transfer tax revenues to charities through the tax credit, and widespread government disinvestment of large institutions and the contracting out of social services to charities which lack adequate core funding.⁶⁵ On the latter point, Raddon writes:

Significantly, delivering social services through the shadow state allows governments to download responsibility for, as well as the costs of, these services. As services are provided through mechanisms external to government, governments become accountable only for regulatory efficiency and for the efficacy of the funding relationship. Para-state agencies [charities] become primarily accountable to funders rather than to recipients. People who erstwhile received bureaucratized services as an entitlement of citizenship are cast as

⁵⁹ Saleeby, *supra* note 57 at 4-6.

⁶⁰ Josefina Figueira-McDonough, "Policy practice: The neglected side of social work intervention" (1993) 38:2 *Social Work* 179 at 180.

⁶¹ Many social work scholars have advocated that the social justice of mission of social work requires a greater emphasis on training social workers to be knowledgeable about and engage in policy practice. See e.g. John G McNutt, "The Macro Practice Curriculum in Graduate Social Work Education: Results of a National Study" (1995) 19 *Admin in Soc Work* 59; Manohar Pawar, "Social Policy Curricula for Training Social Workers: Towards a Model" (2004) 57 *Australian Soc Work* 3; Marie Raber & Janis Richter, "Bringing Social Action Back into the Social Work Curriculum: A Model for 'Hands On' Learning" (1999) 19 *J of Teaching in Soc Work* 77; Michael Reisch & Stanley Wenocur, "The Future of Community Organization in Social Work: Social Activism and the Politics of Profession Building" (1986) 60:1 *Social Service Rev* 70; Christine F Saulnier, "Policy Practice: Training Direct Service Social Workers to Get Involved" (2000) 20:1-2 *J of Teaching in Soc Work* 121; Idit Weiss, John Gal & Joseph Katan, "Social Policy for Social Work: A Teaching Agenda" (2006) 36:5 *Br J Soc Work* 789.

⁶² Wes Porter, "When Experiential Learning Takes Center Stage – Not Yet" (2015) 1:1 *J Experiential Learning* 79 at 82.

⁶³ See e.g. Jacquelyn Mitchell & Rufus S Lynch, "Beyond the Rhetoric of Social and Economic Justice: Redeeming the Social Work Advocacy Role" (2003) 10:2 *Race, Gender & Class* 8.

⁶⁴ See e.g. Cheryl Regehr et al "Identifying Student Competencies in Macro Practice: Articulating the Practice Wisdom of Field Instructors" (2012) 48:2 *J Soc Work Ed* 307.

⁶⁵ Mary-Beth Raddon, "Neoliberal Legacies: Planned Giving and the New Philanthropy" (2008) 81 *Studies in Political Economy* 27 at 39.

needy clients of "caring" agencies that may impose arbitrary, personalized, or moralized expectations of what it means to receive "help."⁶⁶

This structure produces a "charity model" in which the helping relationship is suffused with systemic inequities. The fact that this is the structure in which many lawyers and social workers practice – particularly when working with people facing marginalization – underscores the need to create more space for social justice practice that addresses structural barriers. As noted earlier in this section, there is a significant body of literature written over the past 20 years on public interest lawyering, community lawyering, cause lawyering, and other social justice approaches that, while not included in formal codes, are reflected in the moral imagination and practices of lawyers. As this literature greatly resembles structural social work theory, my definition of social justice arises from both traditions.

While many have noted the difficulties with arriving at a common definition of social justice,⁶⁷ my understanding of social justice is grounded in structural social work and social justice lawyering theories and principles. In this Report, "social justice" means a focus on eradicating political, economic, and social domination, oppression, and subordination.⁶⁸ This approach challenges the structural barriers, and complicates the boundaries, categories and hierarchies, that perpetuate oppression and subordination. Mullaly, describing Heller's approach to social justice, states that "social injustice...entails not only an unfair distribution of goods and resources, but includes any norm, social condition, social process, or social practice that interferes with or constrains one from fully participating in society, that is, from becoming a full citizen".⁶⁹ The following description of structural social work, offered by Mullaly, provides further guidance on what a comprehensive vision of social justice entails:

- Social problems are built into the structures (social institutions, social processes, social practices, and social relationships) of society.
- Focusing on the individual as the cause of social problems is blaming the victim. For social problems to be resolved, social structures must change.
- Social inequalities are mainly structural in nature and not the result of innate differences.
- Society functions in ways that discriminate against people along lines of class, gender, race, and so on.
- The state's institutions, such as the law and educational system, function as instruments of oppression and benefit the privileged groups.
- The traditional dichotomy between the individual and society needs to be challenged; individual problems cannot be understood separate from the social context.
- Social structures, ideology, and personal consciousness are interrelated—each element or component of society impacts on the others.
- Knowledge is not objective, and the knowledge of the dominant group forms the ruling ideas in society and reflects the interests of the dominant group, often at the expense of subordinate groups.

⁶⁶ *Ibid* at 41-42, citing Patrick Burman, *Poverty's Bonds: Power and Agency in the Social Relations of Welfare* (Toronto: Thompson Educational Publishing, 1996).

⁶⁷ See e.g., Janine Brodie, "Reforming Social Justice in Neoliberal Times" (2007) 1:1 *Studies in Social Justice* 93; Carole J Olson, "Voices from the field: Social workers define and apply social justice." (2013) 24:1 *J of Progressive Human Services* 23; Michael Reisch, "Social Justice and Multiculturalism: Persistent Tensions in the History of US Social Welfare and Social Work" (2007) 1:1 *Studies in Social Justice* 67.

⁶⁸ Bob Mullaly, *The New Structural Social Work*, 3rd ed (Don Mills, ON: Oxford University Press, 2007).

⁶⁹ Bob Mullaly, *Challenging Oppression: A Critical Social Work Approach* (Don Mills, ON: Oxford University Press, 2002) at 35.

- A social change perspective must be adopted as a response to social problems and oppression.
- Conventional social work perpetuates social problems by focusing on personal change and/or limited social reform rather than fundamental social change.
- Capitalism should be rejected in favour of some kind of reconstituted democratic socialism.
- No single source or form of oppression can claim primacy. All sources and forms of oppression are to be rejected, and no hierarchy of oppression is developed.
- The welfare state in a capitalist society props up capitalism and operates in a way to reproduce all oppressive social relations.
- The positive and liberating aspects of modernist critical social theory and of critical postmodern theory are both of central importance.
- Emphasizing either 'individual agency' or 'structural forces' as the focus for social change is overly reductionist. To understand social problems and develop structural approaches, both are necessary.
- The dominant order must be challenged and resisted by developing counter-discourses to victim-blaming, free-market glorification, welfare dependency, etc.
- An anti-oppressive approach to social work should be adopted....

Social justice, then, requires destabilizing traditional lawyer-client and social worker-client relationships, in which the client is always subordinate to the professional, the "expert knower". Fundamentally, social justice lawyers and structural social workers are committed to working alongside the people they support – even when those people desire an outcome/approach that is different from the professional's – helping them and their communities build power to "directly shape their own lives and world."⁷⁰ This type of work requires stepping outside the comfortable confines of the role of "professional" and into a much more disorienting space.⁷¹ Social justice lawyers, Piomelli explains, seek "not only to win particular rights or policy outcomes, but to pursue and win them in ways that enhance clients' and communities' power to win future struggles and to preserve those victories. Building power is the ultimate goal, particularly the power to act in concert with others."⁷² Or, as Shin Imai puts it, "Lawyers should use law as a tool for advancing community goals, not as a blueprint for re-constructing community realities."⁷³

Since legal problems do not fit into tidy boxes that can be kept separate from social problems, marginalized clients and communities are often bewildered by the narrow and sometimes technocratic approach of lawyers who do not seem to understand or address the complexity of the issues they face.⁷⁴ Amanda Dodge, lawyer at Community Legal Assistance Services for Saskatoon Inner City, interviewed people from marginalized groups in three Canadian cities about their experiences with the legal system. She found that many clients and communities experiencing oppression want lawyers to be more sensitive to their experiences and struggles, better informed about other service providers and information sources, and better equipped to provide more comprehensive support and advocacy.⁷⁵ As she noticed:

⁷⁰ Ascanio Piomelli, "Sensibilities for Social Justice Lawyers" (2013) 10 *Hastings Race & Poverty LJ* 177 at 183.

⁷¹ See e.g. Fran Quigley, "Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in the Law School Clinics" (1995) 2 *Clinical L Rev* 37.

⁷² Piomelli *supra* note 70 at 183

⁷³ Shin Imai, "A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering" (2002) 9 *Clinical L Rev* 195 at 225.

⁷⁴ See e.g. Austin Sarat, "'...The Law is All Over': Power, Resistance and the Legal Consciousness of the Welfare Poor" (1990) 2:2 *Yale JL & Human* 343.

⁷⁵ *Supra* note 11 at 23-24.

When lawyers and judges talk about access to justice, we usually talk about law and justice systems and the provision of legal services and information. Our vision is often limited to our frame of reference. When marginalized community members talked about justice, they talked about what is happening outside of courthouses and law offices: poverty, education, racism, home environments and more. They highlighted the need for resources and supports necessary to ensure that we live in *just societies*.⁷⁶

These lived realities of oppression and marginalization reinforce the need for stronger alliances between lawyers and the people they support, and this orientation must anchor any externship program that is serious about advancing social justice.

⁷⁶ *Ibid* at 22.

PART II: THE CASE FOR EXPERIENTIAL LEGAL EDUCATION

Background and Definitions

Experiential education is still relatively new to legal education.⁷⁷ While the term is sometimes used interchangeably with “experiential learning,” the latter refers to *any* situation in which we learn from experience, whereas the former is an intentionally designed and guided learning process in which theory with practice are integrated.⁷⁸ Service learning, which is a form of experiential education, refers to the integration of community service with intentional learning activities. In this model, outcomes are expected to benefit both the educational institution and the community organization, but the emphasis tends to be placed more on the service performed than on knowledge and skills development.⁷⁹

Experiential legal education can take many forms, including simulation-based courses, clinics, and externships. As the name suggests, simulations involve a range of activities including debates, client interviews, negotiation, mediation, trial practice, and other activities that imitate potential real-life situations in which a lawyer might engage. This “in role” form of simulation is most common today in law schools; however, experiential education can take on multiple forms, including plays, performances, touring locations in the community, and many other activities. In “direct service” or “live client” work, “students form lawyer-client relationships directly with clients, in law practices engaged exclusively in clinical practice, under the supervision of... clinicians.”⁸⁰ Externships might also involve live client, policy and other work with real life implications. Unlike clinics, however, the externship involves students being placed in workplaces, nonprofits or other locations over which the law school has no governance relationship. The law school is also not responsible for funding the operation of these placements.

Well-designed clinics are still considered the best place in which students can learn a range of direct practice and community-based lawyering skills, attitudes and knowledge. Externships are generally recognized as a potentially valuable supplement to existing clinical programs, as the former can address particular substantive contexts, legal or policy contexts, or competencies lacking in a clinical program. Externships can also be used when sufficient clinical placements are not available, although certainly should not be used as a replacement for clinical programs. Externships are generally part of a program of education in which students have a mandatory classroom experience that helps them integrate their field placement and doctrinal learning. Although on-site supervisors are expected to facilitate a learning experience for students, it is usually the in-class instructor who makes links explicit. Integration classes commonly focus on such topics as reflective practice, learning from practice, ethics and professionalism, and so on.⁸¹

As Roy Stuckey and others outlined in their 2007 text, *Best Practices for Legal Education (Best Practices)*, the common underpinning of these pedagogies is the understanding that the law student best develops expertise when s/he continually performs complex skills followed by

⁷⁷ David I C Thomson, “Defining Experiential Legal Education” (2014) 1 J Experiential Learning 1 at 4.

⁷⁸ Roy Stuckey et al, *Best Practices for Legal Education: A Vision and a Roadmap* (USA: Clinical Legal Education Association, 2007) [Stuckey et al *Best Practices*].

⁷⁹ Timothy Stanton, “Service Learning: Groping Toward a Definition” in Jane C Kendall et al, eds, *Combining Service and Learning: A Resource Book for Community and Public Service: Volume 1* (Raleigh, NC: National Society for Internships and Experiential Education) 65.

⁸⁰ Clinical Legal Education Association, *Handbook for New Clinicians* (May 2015), <online: <http://www.cleaweb.org/Resources/Documents/2015CLEANewCliniciansHdbk.pdf>> at 9.

⁸¹ See J P Ogilvy et al, *Learning from Practice: A Professional Development Text for Legal Externs*, 2nd ed (Eagan, MN: Thomson/West) (edited with Leah Wortham & Lisa G Lerman).

reflection, external feedback, self-assessment, and integration.⁸² Experiential legal education thus sets in motion a commitment to lifelong learning and an intentional process of professional identity formation.⁸³ As Stuckey writes:

When seen as parts of a connected whole, the practical courses in lawyering and clinical legal education make an essential contribution to responsible professional training. These courses are built around simulations of practice or law clinics involving actual clients. But they can do more than expand the apprentice's repertoire of knowledge and skill. Critically, they are the law school's primary means of teaching students how to connect the abstract thinking formed by legal categories and procedures with fuller human contexts.⁸⁴

Experiential legal education has struggled for acceptance within some law schools because of its departure from the Langdellian vision of legal education that took hold in Canadian and American Law Schools. The almost exclusive focus on the cognitive (focus on judge-made law, legal reasoning and analysis), along with funding structures (outside funding from Legal Aid Ontario), and the lack of clinical and experiential-focused tenure-track faculty has stifled creation of place-based learning opportunities for law students. More recently, the American approach to "practice readiness" has not been well received by many Canadian law faculty.⁸⁵ Indeed, if not properly integrated into the curriculum and well-designed, there is significant possibility for a surface learning approach that serves corporate interests and takes advantage of student labour.⁸⁶

Externship programs are commonplace in American schools, but less so in Canada. As with clinics, Canadian law schools have not embraced place-based or work-integrated learning at the same rate as American schools. This is likely due to the existence of articling in Canada (at least for the time being).⁸⁷ However, there has been increasing pressure from the Law Society, students, private firms, and academics to increase experiential education programs. For example, the LSUC ceased offering educational programs that included simulations and experiential approaches. Bar admissions applicants now undertake a program of self-study and two written exams.

Several key reports have been central to the growth of experiential legal education over the last twenty-five years. The American Bar Association's 1992 report, *Legal Education and Professional Development – An Educational Continuum* ("MacCrate Report") outlined 10 fundamental lawyering skills, and four fundamental values, which played an important role in shaping the direction of clinical legal education.⁸⁸ The *Carnegie Report* identified the following "three apprenticeships" of effective legal training: the cognitive apprenticeship, or "thinking like a lawyer"; the practical apprenticeship, which refers to practical lawyering skills, and; the ethical-social apprenticeship, which refers to professional identity formation. The *Carnegie Report* found that law schools generally have done well in the cognitive area, but have fallen markedly short in the areas

⁸² *Supra* note 78 at 122.

⁸³ *Supra* note 77.

⁸⁴ *Supra* note 79 at 123.

⁸⁵ Sarah Buhler, Sarah Marsden & Gemma Smyth, *Clinical Legal Education in Context* (Emond Montgomery, forthcoming 2016).

⁸⁶ See e.g. Sarah Buhler, "Skills Training in Clinical Legal Education: A Critical Approach" (2011) 6 Can Leg Ed Ann Rev 1.

⁸⁷ In Ontario, students can receive admission to the bar through: traditional articles, a Law Practice Program (LPP), or through an integrated practice curriculum in which they meet professional requirements while in law school (In September 2014, Lakehead University's law school launched this model): Law Society of Upper Canada, *Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario* (2012), online: Law Society of Upper Canada <<http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848>>.

⁸⁸ American Bar Association Section of Legal Education and Admissions to the Bar, *Legal Education and Professional Development – An Educational Continuum* (1992) [ABA, *MacCrate Report*].

The fundamental lawyering skills were: (1) problem solving; (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and alternative dispute-resolution procedures; (9) organization and management of legal work, and; (10) recognizing and resolving ethical dilemmas. The fundamental values were: (1) provision of competent representation, (2) striving to promote justice, fairness, and morality, (3) striving to improve the profession, and (4) professional self-development.

of skills training and professional identity formation. One of its key recommendations, therefore, was that law schools should integrate these three apprenticeships throughout the curriculum, and it identified externships as one important way to achieve this integration. As Thomson notes, “one of the best ways to offer students opportunities for formation of their professional identity is by placing them *in role*, and teaching in an integrated fashion virtually *requires* experiential learning opportunities”.⁸⁹

Similarly, Stuckey’s *Best Practices* report advanced the idea that experiential legal education, far from simply enhancing the student’s skills and knowledge in a particular area, is an effective way to integrate doctrine, skills, and professional identity formation.⁹⁰ *Best Practices* recommended that law schools include the following competencies in their curricula: “self-reflection and lifelong learning skills, intellectual and analytical skills, core knowledge and understanding of law, professional skills, and professionalism.”⁹¹ Echoing the work of many other educational theorists – particularly Benjamin Bloom and his colleagues⁹² – Stuckey argued that “[l]aw schools should organize their curriculums to develop knowledge, skills, and values progressively [and] integrate the teaching of theory, doctrine, and practice”⁹³

The connection between experiential legal education and social justice is more complex, as market-based pressures have propelled the rise in some experiential legal education programs. Others are driven by community service objectives, while others are most concerned with the pedagogical benefits of experiential learning. As this Report outlines later, I am advocating a social justice approach to externship development that challenges the neoliberal charity model while also advancing a wide range of teaching and learning competencies. Although the approach here does not serve the interests of private firms, it might allow students to develop additional skills, attitudes and knowledge that make them more attractive to social justice career opportunities.

Best Practices in Legal Externships

Providing law students with experiential education opportunities through externships is now a recognized best practice in legal education.⁹⁴ A legal externship generally involves a student performing non-clinical practice within a law office, under the supervision of both a lawyer working in that office and a member of the law faculty.⁹⁵ The most pedagogically sound externship model involves the lawyer, as the on-site supervisor, working collaboratively with the faculty member to optimize student learning through ongoing feedback and guided reflection.⁹⁶ Law schools need to devote significant time and energy to the development and implementation of a pedagogically sound externship program.⁹⁷ This is particularly important at a time when law schools face increasing pressure to graduate “practice-ready” lawyers, which can lead to haphazardly formed programs without clear curricular integration. There is a burgeoning literature on “best practices” in externship programs. Below, I draw from this literature and apply it to the social justice context.

⁸⁹ *Supra* note 77 at 10 – 11.

⁹⁰ *Supra* note 79 at 146 – 153.

⁹¹ *Ibid* at 48.

⁹² Bloom’s now famous Taxonomy identifies educational objectives into the cognitive, affective and behavioural domains, arguing that these should be integrated in a holistic way in educational programs. Benjamin S Bloom et al *Taxonomy of Educational Objectives, Handbook I: The Cognitive Domain* (New York: David McKay Co Inc., 1956).

⁹³ *Supra* note 79 at 68.

⁹⁴ Carolyn Wilkes Kaas et al, “Delivering Effective Education in Externship Programs (from Building on Best Practices)” (2015) Stetson University College of Law Research Paper No. 2015-16, online <<http://ssrn.com/abstract=2561521>>.

⁹⁵ *Supra* note 80.

⁹⁶ *Supra* note 78 at 619 – 622.

⁹⁷ *Supra* note 94.

Immersion in Practice:

The types of externship opportunities provided to law students will vary according to law school requirements, the placement site's needs and willingness of its supervisor, and the student's learning goals and stage of development. As Carolyn Wilkes Kaas and colleagues outline, regardless of the practice setting, the overarching aim of the externship is to immerse the law student in conditions similar to those they can expect to experience post-graduation:

When students move out of the law school for practice experience, they learn how practicing lawyers and judges handle facts and law, and integrate theory and skill, in real life and in real time, in the presence of pressures and sometimes chaos. They face the sometimes-tough choices and conditions that they will encounter in their post-graduate practice reality, in an environment that is not student-centred.⁹⁸

This approach does not mean that law firms are the only – or even best – possible site of learning. In fact, recent scholarship has problematized what it means for students to work in a “real life” office.⁹⁹ This Report argues that a social justice-driven approach to externships should rely on a set of competencies that reflect affective, behavioural and cognitive goals that are reflected in the placement and reinforced in the classroom.

Dual Supervision:

An important characteristic of externships is that supervision must be shared between the field supervisor, who oversees the casework, and the faculty member, who oversees the integration of learning.¹⁰⁰ It is the externship field supervisor's responsibility to oversee the professional work, which includes giving the student assignments, assessing and providing feedback on performance, and evaluating the professional development of the student in the field. The externship faculty member, who teaches the externship course, should create a rigorous and structured academic environment conducive to the student reflecting on and integrating what is learned in the field. The externship faculty member is also there to ensure the field supervisor is accountable for what is being taught at the field placement.¹⁰¹

Guided Reflection:

A well-structured externship program should provide the student with the opportunity to reflect on and critique their field experiences in a classroom setting. It is the experiential faculty member's responsibility to design and implement guided reflection, which can be facilitated through the assignment of reflective journals, guided group discussion, individual meetings, education plans and goal setting, critical reading, and other teaching and learning methods.¹⁰² The goals of guided reflection are to enhance students' on-site learning and help them develop the ability to learn how to learn from experience. Given the reality that law students are not likely to be

⁹⁸ *Supra* note 94 at 2.

⁹⁹ See Gemma Smyth, “Bridging the Clinical-Doctrinal Divide: Clinician and Student Views of Teaching and Learning in Clinical Legal Programs” in Charles Wankel, ed, *Integrating Curricular and Co-Curricular Endeavors to Enhance Intellectual, Intercultural, Global, Community and Personal Student Outcomes* (forthcoming, 2015); Sarah Buhler, “Forming Critical Lawyers through Clinical Legal Education”(UBC Press, forthcoming 2015).

¹⁰⁰ *Supra* note 94 at 14.

¹⁰¹ *Ibid* at 4.

¹⁰² *Supra* note 78 at 127.

fully developed problem-solvers upon commencing their practice, *Best Practices* suggests that the development of lifelong learning skills could be considered the most important goal of legal education.¹⁰³ Indeed, “Without theory and the ability to theorize, one muddles through, is often ineffective, and cannot generalize from experience.”¹⁰⁴ In this way, *Best Practices* reinforces Donald Schön’s work, which found that *reflection-on-action* (occurring in the classroom) can lead to *reflection-in-action* (in the workplace).¹⁰⁵

Self-Determination and Self-Reliance:

It is also a best practice for the faculty to require the student to set individualized learning goals for the externship, since this responsibility for self-assessment promotes the type of self-determination and self-reliance required post-graduation.¹⁰⁶ The externship context provides many opportunities for self-reliance. For example, it is a best practice for the externship faculty to require the student to establish individualized learning goals. It is also common for the student to play an active role in determining an appropriate placement site.¹⁰⁷ As Stuckey commented in *Best Practices*, “When designed effectively, experiential education is the best mechanism through which students develop self-directed learning skills.”¹⁰⁸ Further, when law schools facilitate autonomy, they “are likely to have students who are happier, healthier, more motivated, and more successful than schools that are less supportive of student autonomy”.¹⁰⁹

The Externship’s Role within the Curriculum and Existing Clinical Programs:

*Law schools must not view externship courses as a substitute for law clinics, and neither should they deliver unsupported, unstructured, and thus, undermined, externships. Instead, it is a best practice for every law school to offer externships as an integral part of clinical legal education, to provide them to every student, and to assure that the externship courses are robust, well- designed, and well-supported.*¹¹⁰

Unfortunately, a common misunderstanding about the educational potential of experiential education in law schools is that clinical courses are primarily vehicles for instruction in the mechanical techniques of lawyering skills. Instruction in interpersonal and professional skills is an important part of clinical education, but skills instruction is seldom, if ever, limited to technique alone. Such matters as the theoretical underpinnings of skills, strategic considerations, preparation for performance, the values and ethical constraints inherent in the performance of the skills, the assumptions of the adversary system underlying the application of the skills, and the efficacy of skills being taught are all part of the educational objectives of

¹⁰³ *Ibid* at 126.

¹⁰⁴ *Ibid* at 127, quoting Kenneth R Kreiling, “Clinical Education and Lawyer Competency: The Process of Learning to Learn From Experience Through Properly Structured Clinical Supervision” (1981) 40 Md L Rev 284 at 287 n.10.

¹⁰⁵ Donald Schön, *The Reflective Practitioner: How Professionals Think in Action* (USA: Basic Books, 1983); Donald Schön, *Educating the Reflective Practitioner: Toward a New Design for Teaching and Learning in the Professions* (San Francisco: Jossey-Bass, 1987).

¹⁰⁶ *Supra* note 95 at 4 – 5.

¹⁰⁷ *Ibid*.

¹⁰⁸ *Supra* note 78 at 127.

¹⁰⁹ *Ibid* at 83.

¹¹⁰ *Supra* note 94 at 27.

*“skills instruction” in clinical courses.*¹¹¹

If externships are to maintain integrity as credit-worthy courses, they must be treated within the curriculum as part of the law school’s clinical legal education options. In other words, the primary purpose of externships should always be to advance pedagogical aims, not other goals such as facilitating employment or enhancing alumni relations, although these might still be important secondary considerations.¹¹² In U.S. law schools, externship courses are taught by people holding an array of positions: full-time faculty members who are tenured, tenure-track, or contract; adjunct faculty; externship directors, who have oversight of several externship courses that make up an externship program, and; administrators responsible for other roles such as career development.¹¹³ Externships are typically structured either as standalone programs, as a sub-set of a clinic or experiential department; or as a sub-set of an administrative office, such as career services.¹¹⁴ This latter, administrative structure is not recommended, as it has the potential to undermine the externship as a pedagogically sound part of the curriculum. Ideally, “externships should be categorized organizationally as courses (and collectively, programs) that are part of the overall clinical legal education program. It is a best practice to organize both the courses and the faculty structure to accomplish this.”¹¹⁵

Where possible, externship teachers should have full-time faculty status and have knowledge of, and experience teaching in, a clinical or experiential setting.¹¹⁶ Following best practices, the externship teacher should be a member of the law school’s clinical teaching faculty, with her main role and responsibility being teaching. While some law schools designate one administrator to oversee the other externship course, this practice is not recommended.¹¹⁷ In the ideal model, the externship teacher is part of the teaching faculty, since this structure provides the independence and protection necessary to ensure the quality of, and address any complaints about, the field supervisor. Moreover, it is a “best practice to assure that everyone teaching externships has the necessary expertise, time, and protection to perform the teaching tasks well, and the requisite status and recognition of the importance of this teaching endeavor.”¹¹⁸ Given the externship teacher’s wide array of responsibilities – e.g., teaching, making and fostering connections to facilitate student placements, evaluating the quality of the field supervision, etc. – law schools should carefully consider the most appropriate balance between teaching and scholarship.¹¹⁹

The ideal experiential education model for law schools is one in which externships, clinics, and other experiential education opportunities complement one another. While most Canadian law schools offer experiential education opportunities, this often is not done through a coherent

¹¹¹ *Supra* note 78 at 125.

¹¹² *Supra* note 94 at 5.

¹¹³ *Ibid* at 6.

¹¹⁴ *Ibid*.

¹¹⁵ *Ibid*.

¹¹⁶ Rebecca Rosenfeld, “The Examined Externship Is Worth Doing: Critical Self-Reflection and Externship Pedagogy” (2014) 21 *Clinical L Rev* 127 at 166.

¹¹⁷ *Supra* note 94 at 6.

¹¹⁸ *Ibid* at 7.

¹¹⁹ *Ibid* at 7: “Externship educators work closely with students; by helping them learn how to practice ethically, externship teachers necessarily must theorize practice. The potential for contributions to the body of scholarship on pedagogy and on the elements of practice are enormous. Externship teachers also are in close proximity to practice and yet, are separate from it. They know what is happening in the world of lawyers, yet they retain an academic objectivity. Like their in-house clinic colleagues, externship teachers are in an ideal place to produce scholarship that provides either descriptive empirical data on practice, incisive critique of practice, and/or prescriptive, theoretical recommendations for improvements in the practice of law. Given the rich scholarship opportunities that result from this vantage point, law schools should decide carefully how externship teachers contribute best to the mission of the law school: as teachers or as teacher/scholars.”

program that is integrated throughout the curriculum. This would require clinical programs, as well as externships and other experiential education opportunities, being on equal footing with other, more traditional approaches to legal education. As Margaret Barry and colleagues write, “In the new millennium, law school clinics cannot continue to be the repository for the many aspects of lawyering that are excluded from substantive law courses taught with the casebook method. The aim...should be to incorporate clinical teaching methodology into nonclinical courses to teach lessons that will be further developed and reinforced by in-house clinic and externship experiences.”¹²⁰

Institutional Learning Goals

Following best practices, the law school should set out learning goals both for the institution and the student, and these goals should be communicated to the field supervisor, who is expected to use them to shape the field experience including the assignment of tasks.¹²¹ When considering its institutional learning goals, the law school has to determine the scope of externship placements it provides. It could choose to provide a broad spectrum of opportunities, ranging from clerkships, legislative and/or other governmental work, NGO and public interest, traditional firm practice, in-house counsel, and private sector placements. Alternatively, the school might decide to offer externship placements only in certain practice settings that strategically align with a specific doctrinal expertise or aspect of its reputation.¹²²

Regardless of how broad or narrow the externship’s scope, *Best Practices* recommends that all programs will:

- (a) Provide students with clear and explicit statements about learning objectives and assessment criteria.
- (b) Focus on educational objectives that can be achieved most effectively and efficiently through experiential education.
 - (1) Help students adjust to their role as professionals.
 - (2) Help students become better legal problem-solvers.
 - (3) Help students develop interpersonal and professional skills.
 - (4) Help students learn how to learn from experience.
- (c) Meet the needs and interests of students.
- (d) Grant appropriate credit.
- (e) Record student performances.
- (f) Train those who give feedback to employ best practices.
- (g) Train students to receive feedback.
- (h) Help students identify and plan how to achieve individually important learning goals.
- (i) Give students repeated opportunities to perform tasks, if achieving proficiency is an objective.
- (j) Enhance the effectiveness of faculty in experiential courses.¹²³

¹²⁰ Margaret Martin Barry et al, “Clinical Education For This Millennium: The Third Wave” (2000) 7:1 Clinical L Rev 12 at 38.

¹²¹ *Supra* note 94 at 10.

¹²² *Ibid.*

¹²³ *Supra* note 79 at 123 – 131.

Student Learning Goals and Learning Outcomes

From these overall institutional goals, the law school will need to explicitly set out the learning outcomes the student is expected to meet. There will be learning outcomes applicable to all externship students, but also room for the development of specific outcomes depending on the externship practice context. In the realm of professionalism, for example, all externship students might be required to articulate the concept of professional identity, practice self-awareness, and engage in responsible, ethical practice in accordance with the rules of professional conduct. Beyond these, however, the context of the externship might call for the student to demonstrate the ability to integrate personal and professional identities.¹²⁴ Wilkes Kaas and colleagues provide several examples of possible student learning goals:

- Identify and build selected and focused lawyering skills and doctrine particular to the placement type, as part of a lawyering process to promote transfer;
- Articulate the meaning of equal access to justice and the lawyer’s duty to promote it, and ways to further access to justice during own career;
- Increase understanding of how law, the legal system, and other social and economic institutions function in the lives of people, particularly the most marginalized:
 - understand the importance of malleability of facts
 - develop and use critical insights about how law functions
 - see clients and problems in context;
- Work effectively with professionals from other disciplines as expected in the particular area of practice;
- Articulate the principles and components of effective and ethical law office management;
- Develop appreciation for which practice types and venues will suit them;
- Recognize the significance of work-life balance and identify strategies for achieving it.¹²⁵

Effective assessment tools are required to determine whether the student has met the goals, and the use of student self-assessment tools has been identified as best practice for externships.¹²⁶ The student self-assessment provides valuable information to both the field supervisor and the externship faculty, and fosters student self-reliance. Also integral to effective assessment is the externship faculty providing the field supervisor with training and materials needed to offer appropriate feedback to the student. It is recommended that the externship faculty directly assess the student’s reflection skills and use assessment tools, such as rubrics, that measure how effectively the student is synthesizing field experience. The student should be given both formative feedback and a summative evaluation.¹²⁷

A hallmark of the externship design is the co-supervision of the student by the field instructor and externship faculty.¹²⁸ The externship faculty must work closely with the field supervisor to ensure a high quality supervision experience in which the educational goals of the

¹²⁴ Kelly S Terry, “Embedding Assessment Principles in Externships” (2014) 20 *Clinical L Rev* 467 at 488.

¹²⁵ *Supra* note 94 at 13 (footnotes omitted).

¹²⁶ *Ibid* at 13.

¹²⁷ *Supra* note 124 at 471, citing Memorandum from Jeffrey E. Lewis, Standards Review Committee Chair, to the Council of the Section of Legal Education and Admissions to the Bar (July 24, 2013) (on file with author) at 54.

¹²⁸ *Supra* note 94 at 14.

student are equivalently prioritized alongside the work being carried out at the placement site.¹²⁹ Further, the law school should “seek out and cultivate those supervisors who understand that their own practice improves when they supervise less experienced, but highly motivated, students. This group of supervisors, with law school support, will promote the need to prioritize the ideals of careful direction, targeted feedback, and student self-reflection that form the core of externship pedagogy.”¹³⁰

The selection of externship placements can be led by the externship faculty, the student, or co-led by both. Regardless of who is primarily responsible for selecting the placement, the top priority is to ensure the field supervisor is fully invested in achieving the identified pedagogical objectives.¹³¹ It is important for the externship faculty and field supervisor to regularly communicate with each other. In addition to providing training to the field supervisor, it is recommended that the externship faculty use site visits, evaluation tools, review student journals and hours-logs, and general outreach through phone and email.¹³² As Wilkes Kaas and colleagues caution:

Fostering effective and inspired field supervision is the most challenging and one of the most time intensive aspects of externship program development, and teaching. Because of the indispensable part that field supervisors play in the externship learning process, law schools must continue to devote appropriate resources to the endeavor, so that externship teachers can invest the necessary time to think creatively about partnering with and training those who guide and teach students in the field placement setting.¹³³

Integrating the Externship Experience

As *Best Practices* identified, “[o]ptimal learning from experience involves a continuous, circular four stage sequence of experience, reflection, theory, and application.”¹³⁴ The Report then offered Steven Hartwell’s explanation of the teaching and learning cycle in “Six Easy Pieces: Teaching Experientially”:

Experience is the immersing of one’s self in a task or similar event – the doing. Reflection involves stepping back and reflecting on both the cognitive and affective aspects of what happened or was done. Theory entails interpreting the task or event, making generalizations, or seeing the experience in a larger context. Application enables one to plan for or make predictions about encountering the event or task a second time.¹³⁵

An externship is typically offered alongside a field integration seminar,¹³⁶ which, if it is designed properly, should: give students a setting in which to critique and reflect on their field experience alongside peers and an instructor; create a sense of community, since often the extern will not work alongside other externs in the field placement setting; expose students to a range of externship

¹²⁹ Barbara A Blanco and Sande L Buhai, “Externship Field Supervision: Effective Techniques for Training Supervisors and Students” (2004) 10 *Clinical L Rev* 611 at 611 – 12.

¹³⁰ *Ibid* at 612.

¹³¹ *Supra* note 94 at 8.

¹³² *Supra* note 129 at 640 – 41; *Supra* note 94 at 16; J P Ogilvy, “Guidelines with Commentary for the Evaluation of Legal Externship Programs” (2003) 38:1 *Gonzaga L Rev* 38:1 155 at 167 – 169.

¹³³ *Supra* note 94 at 17.

¹³⁴ *Supra* note 78 at 122.

¹³⁵ *Ibid*, citing Steven Hartwell, “Six Easy Pieces: Teaching Experientially” (2004) 41 *San Diego L Rev* 1011 at 1013.

¹³⁶ *Supra* note 94 at 19. Some schools offer one-on-one tutorials instead of seminars. If this method is chosen, it is recommended that the number of student-faculty contact hours be equivalent to at least one semester credit, which would make it a costly option.

experiences, and; give students the opportunity to deepen their theoretical knowledge and build skills through simulated exercises such as role-plays.¹³⁷

The importance of student reflection in meeting multiple experiential education objectives is well established. It is a best practice for externships to require a planned and guided process for student reflection,¹³⁸ as this “helps to build the skills, values, and models of critical thinking required to frame and solve complex problems.”¹³⁹ Reflection is foundational to the student’s professional identity formation, professionalism, and self-awareness. Journal assignments are a particularly effective method of facilitating the externship student’s reflective process. For this reason, it is a recommended best practice for the externship faculty to require regular journal assignments (at least every two weeks) and provide timely feedback:¹⁴⁰

Journals can be a place for learners to engage in active problem-solving by putting into concrete form an expression of a problem to be solved; by articulating sub-problems; by sorting through the often chaotic circumstances surrounding a problem to clarify issues and obstacles; by identifying emotional baggage that is interfering with a solution to the problem, and by brainstorming, analyzing, and evaluating solutions.¹⁴¹

From the institutional perspective, guided reflection also provides the externship faculty with useful insight into the overall quality of the field placement, which is especially important given the externship faculty’s limited access to the student’s day-to-day placement experiences.¹⁴² Given the importance of reflection, it is recommended that the law school structure the externship in a way that fosters a strong, trusting relationship between the students and the externship faculty. Of course, this also requires the externship faculty to have the skills, interest and clinical training – not to mention the time – to be effective in this role.¹⁴³ Because some students might question the efficacy of the reflective process, the externship faculty is encouraged to clearly articulate to students how the methods chosen are beneficial to the field placement experience.¹⁴⁴

¹³⁷ *Ibid.*

¹³⁸ *Ibid* at 18.

¹³⁹ Timothy Casey, “Reflective Practice in Legal Education: The Stages of Reflection” (2014) 20 *Clinical L Rev* 317 at 320.

¹⁴⁰ *Supra* note 94 at 19.

¹⁴¹ *Ibid* at 17, fn 90, quoting J P Ogilvy, “The Use of Journals in Legal Education: A Tool for Reflection” (1996) 3 *Clinical L Rev* 55 at 73.

¹⁴² *Supra* note 94 at 18.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid* at 19.

PART III: EXPLORING THE POTENTIAL OF A SOCIAL JUSTICE EXTERNSHIP PROGRAM

Methodology

This Report now turns to empirical data gathered from two studies completed for the purposes of assessing perceived interest in and need for an externship program at Windsor Law. The first is a study completed by Professor Gemma Smyth. Professor Smyth conducted interviews with students and supervisors involved in the Pathway to Potential Externship program, which took place April 2014 through April 2015. The data was drawn only from the summer period during which the community-based portion of the project occurred. The second study, for which I was the primary investigator, included survey data from students, faculty and administrative staff at Windsor Law, as well as decision-makers representing local community organizations, to understand their views on experiential learning, potential need for increased or diversified placement opportunities, and possible credit options. Both studies received approval from the University of Windsor's Research Ethics Board (REB). For Professor Smyth's study, an outside interviewer was hired to minimize conflicts of interest. Below, I summarize findings from both studies. Full text of Professor Smyth's evaluation is contained in Appendix A, while the full survey questions and responses from my study are contained in Appendix B.

Results of Poverty and Social Policy Externship Pilot

Professor Smyth's Report gathered student and staff feedback to determine elements of a successful externship program related to systemic advocacy in a multidisciplinary setting. In this Externship, four law students were placed for four months at P2P. I and another P2P staff member supervised them. Students chose an area of interest in conjunction with P2P and worked on this area throughout the summer. Students did not engage in direct client work in the traditional sense; rather, they were involved in indirect or systemic work, including policy, community development, research, and activism. The placement was interdisciplinary¹⁴⁵ and social justice-focused. After the placement, students were offered the opportunity to work with a Windsor Law faculty member on a for-credit supervised research project directly related to their summer work. All students took advantage of this opportunity.

Student and staff feedback was very positive, and both had suggestions to improve potential future iterations. Below, I directly reproduce Professor Smyth's recommendations for a successful placement. All suggestions are drawn from the perspectives of students and staff.

Pre-Placement Assessments

Upon beginning their placement, students were interviewed and asked about their previous experiences, current interests and future goals. Staff attempted to assign them to tasks that aligned with their interests and skills. Some flexibility was required in matching current community issues and student interest. This matching program seemed to improve student interest and success.

¹⁴⁵ Students from the Social Work and Communications, Media & Film Studies programs at the University of Windsor were also undertaking field placements at P2P from April through August 2014.

Learning Design

Staff was intentional about giving students specific experiences that would support them in becoming policy experts and leaders. Staff ensured that all students were given leadership experience, as well as a broad array of community development experiences in the general area of policy. Students were also given a significant amount of autonomy. The placement relied on a guided but largely self-directed form of learning in which students took significant responsibility over a specific project. This approach seemed to work to get the most from students in terms of learning and performance.

Meaningful Work

Students were given a choice of meaningful projects. As one student said, “[w]e weren’t just given busy work. There were actually things that needed volunteers to actually propel [projects forward]... the autonomy that I had in making my project go in certain directions and how the ideas that I would come up with from my own brain, being able to see that kind of materialize was kind of really exciting and not something I had experienced often or ever before.”

Supervision

Another key to the experience was having high quality supervision. Key characteristics reported by students include: flexibility, availability (the term “open door policy” came up several times), supportive, approachable, and excited about their work. One student said, “[w]e were really lucky having [P2P staff]... having someone who is approachable... someone obviously excited about the work that you are doing, I think that's really important. Just in terms of the general sort of atmosphere and culture in the place, I think that really has an effect on performance and outcome.” The primary supervisor at P2P had a professional background in both law and social work, which was helpful in understanding the benefits and limits of both approaches.

Work Environment

The environment was also supportive and relied on teamwork. One student said, “We were each given a portfolio... which worked really well because we were each able to be the authority and leader on that different project but then also reach out to other students for help... we all worked together as a team and that was done really well because it felt like we were part of the organization as opposed to law students who were sort of shipped in, so that was really good”.

Length of Placement

As with any placement or educational experience, P2P staff and students weighed the length of time students spent in the placement against the cost of training them. A four-month training period seemed ideal for both staff and students. One staff reported that “I would have kept them forever but it was a decent amount of time that we were actually able to accomplish things”.

Should Students Receive Payment?

In the United States, there are specific bars to payment for externship programs. As discussed earlier, payment was an unexpected bonus for this project, but would be a matter for discussion in future years. Staff and students varied widely on how and whether payment affected performance in this project. Staff reflected on how having paid

students affected how they treated them. One staff said “I think we gave them more power than we typically would and did treat them more as staff and colleagues versus interns... we gave them higher profile projects”. Students did not think that payment influenced their behaviour, but it would otherwise limit the number of students able to complete the placements. One student said, “I don't think it really influenced performance. For myself, and I imagine for a lot of other students, without remuneration we probably wouldn't be able to do it. Just... financial realities. The alternative would be a volunteer basis thing, you know a couple hours a week can't really accomplish too much in that time.” Students and staff both thought that receiving credit was a viable option in lieu of payment. When asked if there were other options instead of payment, one staff suggested “if you can't get paid, if you could at least leave with an awesome portfolio piece to say ‘I executed this project’ to get something published or a research project”. Another student stated that “[i]f we were able to get credit for it and there was research involved it would encourage students...”.

Results of Surveys on Social Justice Law Externships

Background

Part of my research involved assessing the interest in and need for a social justice-focused externship program at Windsor Law. This work involved a literature review in the areas of experiential education, externships, interdisciplinarity and social justice, which have been integrated into this Report. The second part involved surveying potential stakeholders in such a program. To do so, an electronic survey was administered to the following three groups: Windsor Law students across all levels of study; Windsor Law professors and administrators who are currently involved with some form of externship placement, and; directors or leaders of Windsor-Essex community agencies with a social justice focus. The goal of the project was to discover what type(s) of externship programs would be most practical, useful, engaging, and relevant for law students, community partners, and law professors and administrators.

Survey of Law Students

Of 450 prospective participants invited to the study, 51 responded to the survey (RR=11.3%). Of the 51 respondents 23 fully completed the survey (CR=45%). In line with the University of Windsor's REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the data analysis.

All of the students (33) who responded to the question about their status indicated that they were enrolled in full-time studies, with 19 (57.6%) in the Three Year JD program, 7 (21.2%) in the MSW/JD program, and 7 (21.2%) in the Canadian and American Dual JD Program. A strong majority of respondents (97%) stated they plan to practice law upon completing their degree. When asked if they planned to work in a social justice setting, 24 (72.7%) replied ‘yes’ and 9 (27.3%) replied ‘no’. When asked which experiential learning opportunities they had participated in, the most frequent responses were Community Legal Aid (60.6%), Mooting (54.5%), Pro Bono Students Canada (30.3%), Legal Assistance Windsor (15.2%) and the Transnational Law and Justice Network (12.1%) (See Figure 1).

When asked whether there is a need for additional placement opportunities for law students, 31 (93.9%) replied ‘yes’ and 2 (6.1%) replied ‘no’. Most students (78.8%) also felt there is a need for an additional placement program that focuses specifically on social justice. On the question of which tasks they would like to undertake through an externship, systemic advocacy

ranked the highest, but there was a fairly even distribution across all of the options provided (see Figure 2). Systemic advocacy also ranked highest in the related question about which skills students would like to gain through an externship (see Figure 3). Students' preferred areas of law in which to gain externship experience were International Human Rights (76.9%), Immigration (61.5%), Refugee (57.7%), Criminal (57.7%), First Nations/Indigenous (50%) and Family (50%) (see Figure 4).

When asked about their preferred location in which to complete an externship, Windsor-Essex (76.9%) and the Greater Toronto Area (61.5%) received the highest ranking. The most frequently stated reasons for the selected location included convenience (20%), proximity to residence (Windsor) (18%), and proximity to home residence (out of town) (13%).

On the question of their preferred year of study in which to complete an externship, second year received the highest ranking at 69.2%, with first year and third year each receiving support from 15.4% of the respondents. When students were asked to rank their preferred externship structure, the option ranked "most ideal" by most students (42.3%) was full-time over the summer, followed by part-time over one term (23.1%).

Figure 1: Which of the following experiential learning opportunities have you participated in while enrolled at Windsor Law?

Response	Chart	Percentage	Count
Community Legal Aid		60.6%	20
Legal Assistance Windsor		15.2%	5
Pro Bono Students Canada		30.3%	10
Self-Represented Litigants Project		0.0%	0
Social Justice Fellowship Program		3.0%	1
Law, Technology and Entrepreneurship Clinic		3.0%	1
Transnational Law and Justice Network		12.1%	4
Northwest Territories Clerkship Program		3.0%	1
Student Clerkships		0.0%	0
Provincial Court Windsor--Criminal Law		0.0%	0
Provincial Court Windsor--Family Law		3.0%	1
Provincial Court Newmarket		0.0%	0
Mooting		54.5%	18
None of the above		6.1%	2
Total Responses			33

Figure 2: Please indicate which tasks you would most like to undertake through an externship.

Response	Chart	Percentage	Count
Litigation		65.4%	17
Research		65.4%	17
Policy Analysis		69.2%	18
Law Reform		69.2%	18
Community Development		69.2%	18
Direct Client Service		53.8%	14
Systemic Advocacy		76.9%	20
Other, please specify...		3.8%	1
		Total Responses	26

Figure 3: What skills do you wish to gain during an externship placement?

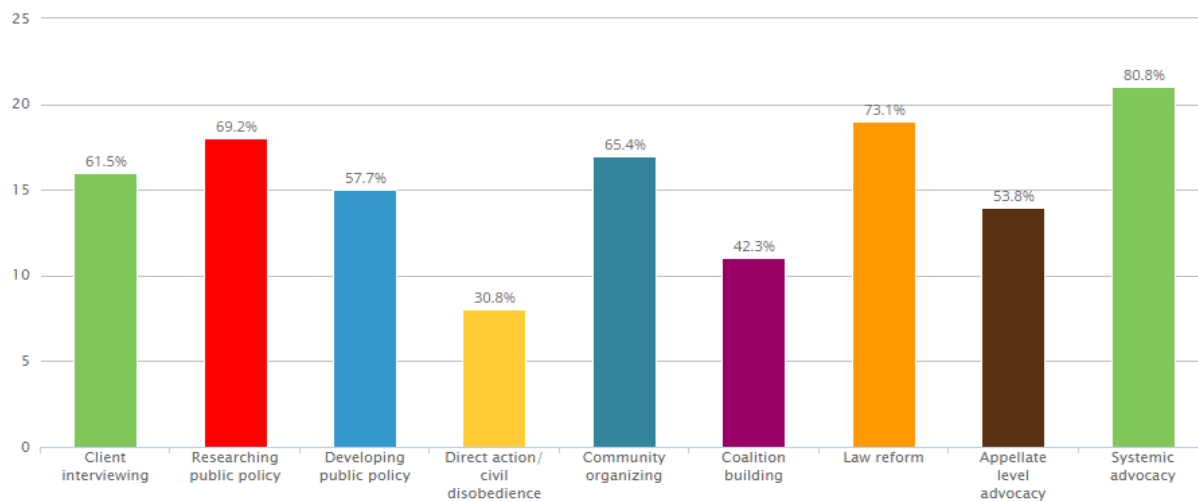


Figure 4 – In which area(s) of law would you like to gain externship experience?

Response	Chart	Percentage	Count
Immigration		61.5%	16
Refugee		57.7%	15
Social Benefits		42.3%	11
Employment		23.1%	6
Family		50.0%	13
Labour		23.1%	6
Criminal		57.7%	15
Enviroment		30.8%	8
Corporate Commercial		15.4%	4
Health		46.2%	12
Municipal		34.6%	9
Housing		34.6%	9
International Human Rights		76.9%	20
National Security		46.2%	12
Charitable Organizations		46.2%	12
First Nations/ Indigenous		50.0%	13
Other, please specify...		0.0%	0
		Total Responses	26

Survey of Law Faculty and Administrative Staff

The survey of law faculty members was administered through the online survey software FluidSurveys. The survey consisted of 18 questions and surveyed faculty members' previous experiences with experiential education and preferred curriculum options. Of 35 participants invited to the study 18 responded to the survey (RR= 51.4%). Of the 18 respondents 10 fully completed the survey (CR=56%). In line with the University of Windsor's REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the survey.

The majority of faculty members surveyed (83%) thought that the faculty should have more experiential education placement opportunities for law students. However, 38% thought the faculty should also strengthen its existing placements, such as the Social Justice Fellowship and Clerkship programs. Rationale for increasing the number of placements included providing students with a greater number and diversity of opportunities.

Most faculty members (12 of 16) had been involved in some form of experiential education activity outside the classroom. The greatest number had been involved with the Social Justice Fellowships and Mooting programs (see Figure 5). In addition to the experiences listed, faculty members added involvement in Professional Identity and Legal Skills (PILS) Week, the Mediation Clinic, supervised research projects with off-site work, as well as a variety of courses taught using experiential methods. When asked whether Windsor Law should create a for-credit experiential education program focusing specifically on social justice, 83% of respondents answered "yes". The rationale for this response for many survey respondents was Windsor Law's existing social justice mission. Others wanted broader opportunities for students in areas related to social justice. Again, respondents were concerned that existing opportunities should be better standardized. In terms of

specific learning outcomes, faculty members thought that social justice externships could deepen students' critical analysis of systems of justice, increase their professional competencies, develop community and cultural competence, and increase their policy analysis, social justice and advocacy skills.

Faculty members were asked to give input on what existing experiential learning opportunities they considered to be "working well" (Figure 6). The Clinics were rated most highly at 28.6%, followed by Clerkships. Faculty were asked their perspective on the limitations of the current experiential education initiatives (see Figure 7). Surprisingly, the top rated response (22.2%) was a lack of available opportunities for students. This echoes a previous survey of students conducted by Dr. Julie Macfarlane for curriculum reform purposes.¹⁴⁶ Faculty members also identified a lack of infrastructure and standardization among the existing opportunities as an additional challenge, as well as lack of integration of experiential education across the curriculum and misunderstanding of the role and nature of experiential education (16.7% each). These responses reflect a need for further faculty education on experiential education, as well as for increased attention to curricular integration. A smaller percentage listed the challenges of existing structural factors such as the Law Society of Upper Canada's practice rules and the Federation of Canadian Law Societies' requirements for common law degrees as important (11.1%). A small percentage of respondents listed funding challenges as a barrier to increasing experiential learning opportunities.

Faculty members were interested in supervising students in experiential education opportunities in a range of areas (Figure 8). As most faculty members have not maintained their license to practice, it is unsurprising that only a few were interested (or perhaps able) to work in the area of litigation or direct client service. Significantly more were interested in research, policy analysis and law reform. Overall, 12 respondents showed interest in supervising students in some area related to experiential education placements.

Faculty members were mixed in their views of when and how experiential education placements should take place (See Figure 9). When asked whether an ideal placement would be part-time or full-time, over one or two terms, and/or over the summer, the response ranked "most ideal" by the largest number of faculty was part-time over two terms, while the next most favoured structure was full-time over the summer. Faculty members were also divided over the total number of hours that should be devoted to a placement per week. The greatest number of responses fell at 7 - 12 hours per week, with other options equally divided. Interestingly, only one faculty member raised the issue of credit or compensation for these placements. Literature indicates that this is an important issue in development of these programs, but did not appear in this survey data.

Figure 5 - Have you been involved in any of the following experiential learning initiatives in a supervisory capacity?

Response	Chart	Percentage	Count
Community Legal Aid		16.7%	2
Legal Assistance Windsor		16.7%	2
Pro Bono Students Canada		8.3%	1
Self-Represented Litigants Project		8.3%	1
Social Justice Fellowship Program		50.0%	6
Law, Technology, and Entrepreneurship Clinic		16.7%	2

¹⁴⁶ On file with author.

Response	Chart	Percentage	Count
Transnational Law and Justice Network		25.0%	3
Northwest Territories Clerkship Program		0.0%	0
Student Clerkships		8.3%	1
Provincial Court Windsor--Criminal Law		8.3%	1
Provincial Court Windsor--Family Law		8.3%	1
Provincial Court Newmarket		8.3%	1
Mooting		50.0%	6
"Projects for Justice" in Access to Justice Course		33.3%	4
Other, please specify...		25.0%	3
None of the Above		16.7%	2
Total Responses			12

Figure 6 - What experiential learning initiatives at Windsor Law do you feel are currently working well? Why?

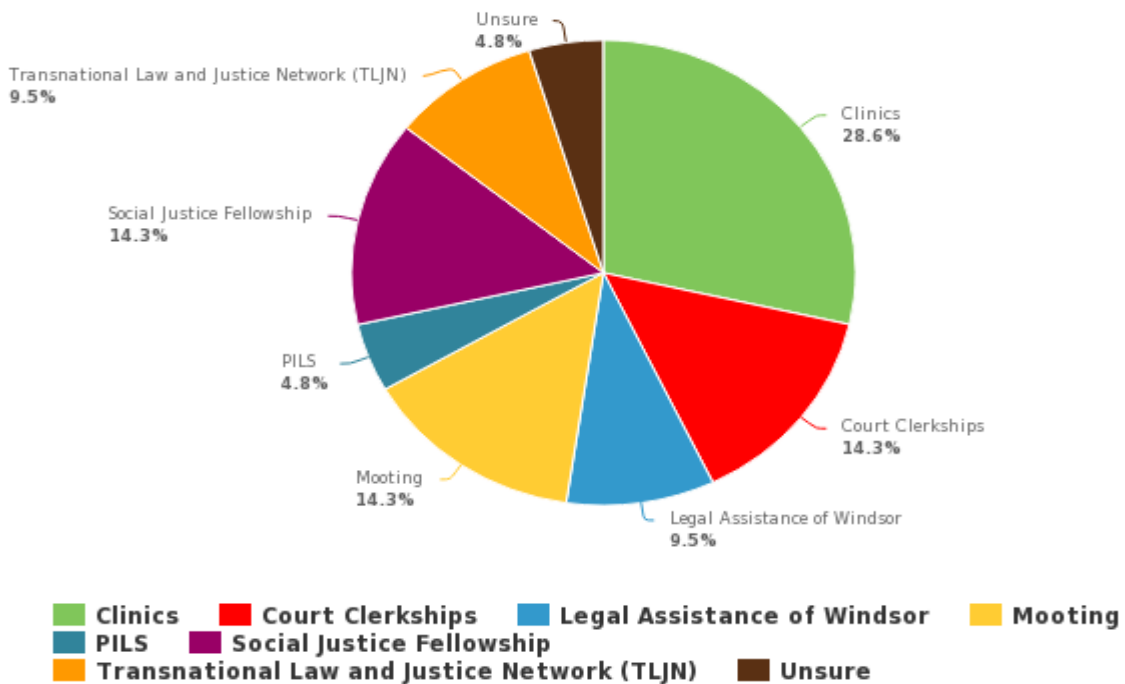


Figure 7 - What are the limitations to current experiential learning initiatives? Why?

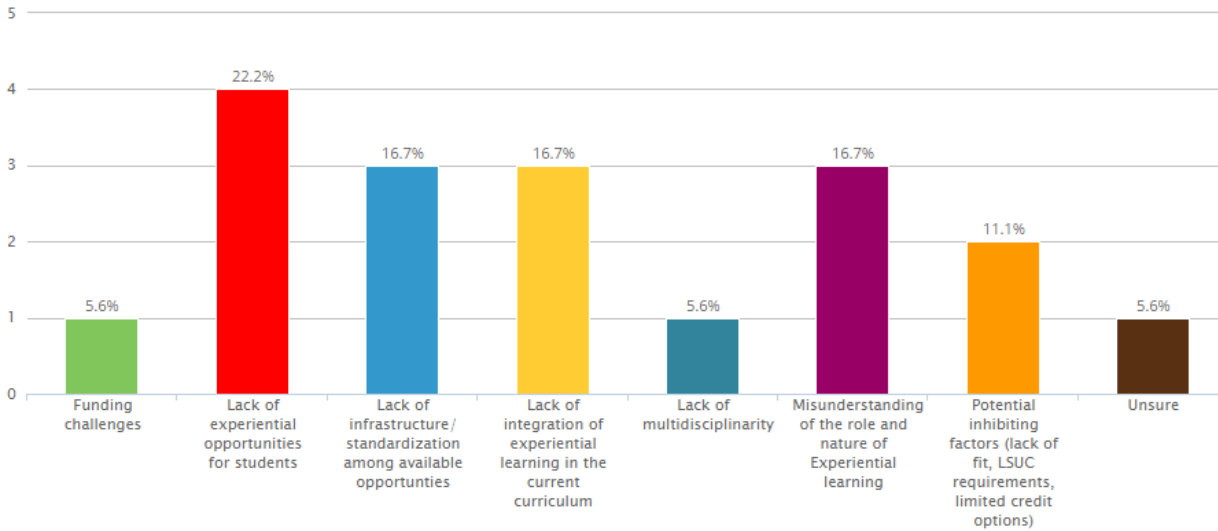


Figure 8 - Please indicate the areas in which you would be interested in supervising students.

Response	Chart	Percentage	Count
Litigation		25.0%	3
Research		75.0%	9
Policy analysis		75.0%	9
Law reform		66.7%	8
Community development		41.7%	5
Direct client service		16.7%	2
Systemic advocacy		16.7%	2
Other, please specify...		8.3%	1
Total Responses			12

Figure 9 – Please rank the following externship structure from 1-5.

	(1) Most Ideal	(2)	(3)	(4)	(5) Least Ideal	Total Responses
Part-Time over one term	0 (0.0%)	1 (12.5%)	2 (25.0%)	3 (37.5%)	2 (25.0%)	8
Part-Time over two terms	4 (50.0%)	0 (0.0%)	2 (25.0%)	1 (12.5%)	1 (12.5%)	8
Part-Time over the summer	1 (14.3%)	0 (0.0%)	0 (0.0%)	3 (42.9%)	3 (42.9%)	7
Full-Time over one term	1 (12.5%)	3 (37.5%)	2 (25.0%)	1 (12.5%)	1 (12.5%)	8

	(1) Most Ideal	(2)	(3)	(4)	(5) Least Ideal	Total Responses
Full-Time over the summer	2 (25.0%)	4 (50.0%)	2 (25.0%)	0 (0.0%)	0 (0.0%)	8

Survey of Community Organizations

The survey of community organizations was administered through the online survey software FluidSurveys. The survey consisted of 17 questions across 6 webpages (Approximately 3 questions per page). Of 56 prospective participants invited to the study, 25 responded to the survey (RR=44.6%). Of the 25 respondents 21 fully completed the survey (CR=84%). In line with the University of Windsor's REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the data analysis.

All organizations surveyed wanted law students to work with them as externs for credit. All organizations surveyed offered practice experience for students (although only 80% said they had existing resources to host law externs immediately). Eight organizations (36%) had previously had law students work with their organization in some way, and the rest had not. Five of the organizations had previously worked with Pro Bono Students Canada, and the others had worked with Legal Assistance of Windsor students, MSW/JD students, a paralegal student from St. Clair College, and a law student through the University of Windsor's Volunteer Internship Program (VIP). Fifteen or 75% of respondents were interested in hosting a law student, and five responded that "perhaps" they would be interested. The rationale for most organizations to host students was that it provided some benefit to their organization and its service users (42.9%). 21.4% wanted more information before deciding. For 10.7%, they saw student placements as in line with their agency's mission, and an equal number were interested in a structured placement curriculum. Law students were seen to provide a range of skills that could be beneficial to an organization. "Legal knowledge and skills" was ranked most highly at 21.1%, while 15.8% were interested in legal advice for clients, and 13.2% were interested in research, client advocacy, and a law student's "unique perspective" (See Figure 10). Agencies were also asked about what specific tasks they would assign law students. The greatest number (71.4%) stated that students would do community presentations and public legal education. About two-thirds (66.7%) indicated that law students would complete legal research, and an equal number wanted students to give legal advice under the supervision of a lawyer. 61.7% were interested in students doing systemic advocacy. Another respondent was interested in law students partnering with their staff to update policies and programming and complete grant writing. The full range of tasks is listed at Figure 11.

Agencies gave a range of responses on the ideal number of hours they would like a student at their organization (Figure 12). When asked if they had any hesitation about hosting an extern, the greatest number of respondents had none (31.8%). Others were concerned about possible resource drain on staff, unclear requirements of the organization, ability to establish longer-term projects, and existence of off-site support (see Figure 13). Of the organizations surveyed, 28.2% had an on-site lawyer, and all of these respondents were interested in hosting a law student. Of those organizations that had never offered practice experience for law students in the past, 60% stated that they would be willing to host a student extern if Windsor Law provided off-site supervision or supervisory support. All of the organizations that did not have an on-site lawyer stated that they would be willing to host a student extern if off-

site supervision or supervisory support were made available through Windsor Law. All organizations requested more information about an externship program.

Figure 10: What value do you think a law student might add to your organization?

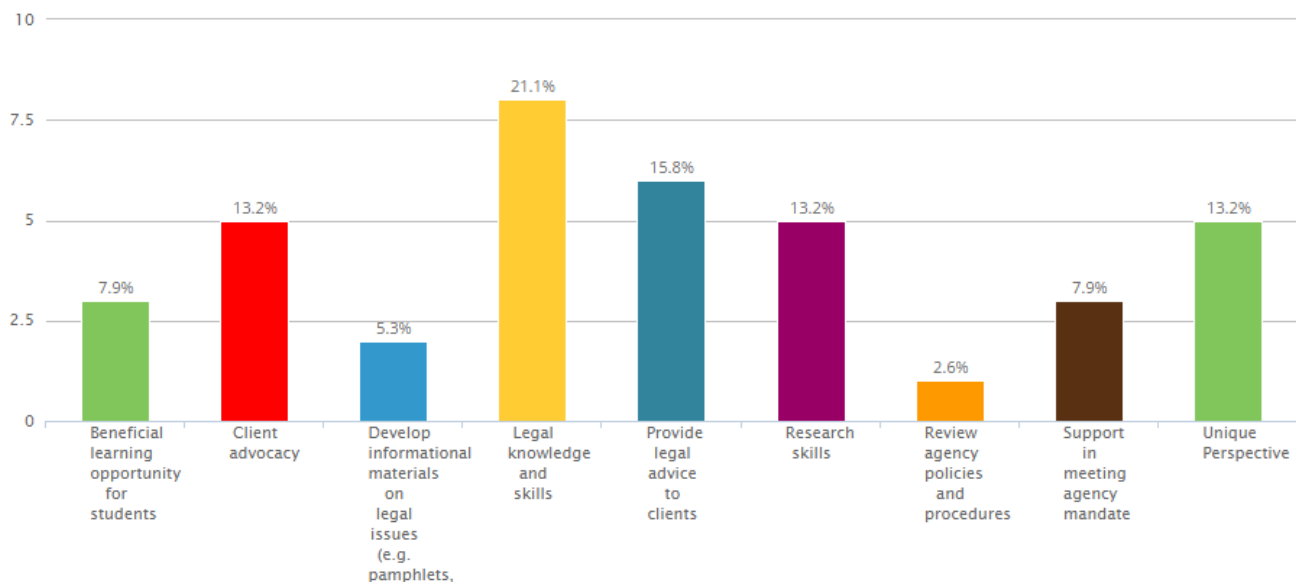


Figure 11 - What tasks do you think a law student might be able to complete at your organization?

Response	Chart	Percentage	Count
Legal research		66.7%	14
Legal writing		28.6%	6
Community presentations/ public legal education		71.4%	15
Direct client service (giving legal advice to clients under the supervision of a lawyer)		66.7%	14
Systemic advocacy		61.9%	13
Law reform		19.0%	4
Legal work for the organization		38.1%	8
Other, please specify...		14.3%	3
Total Responses			21

Figure 12 - How many hours per week would you like a law student to work at your organization?

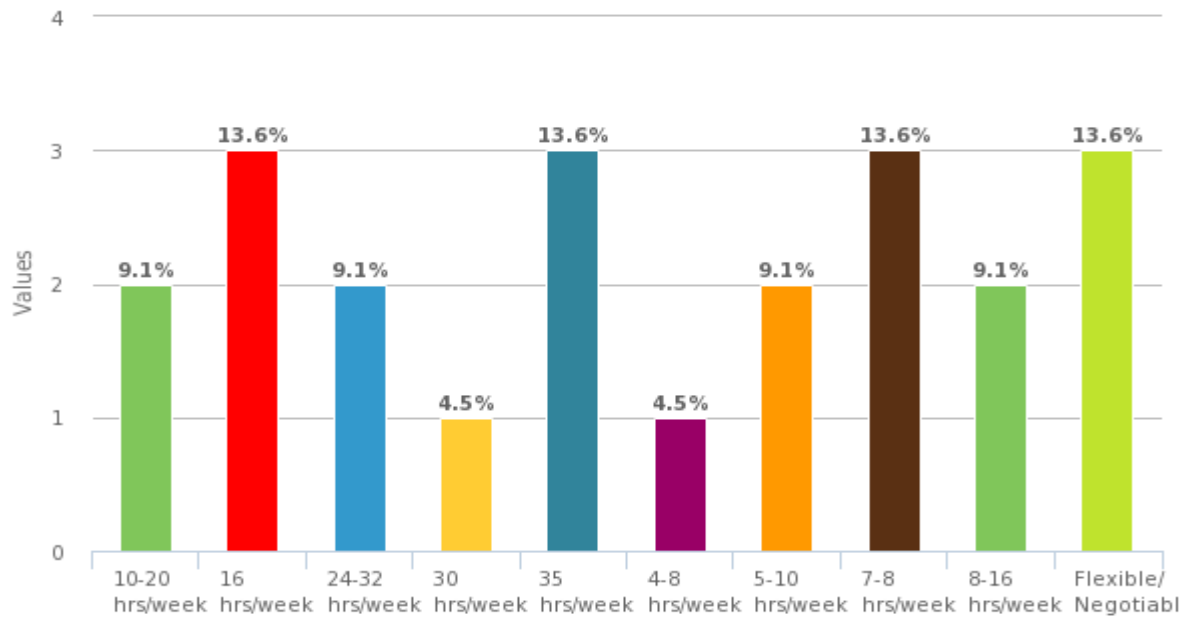
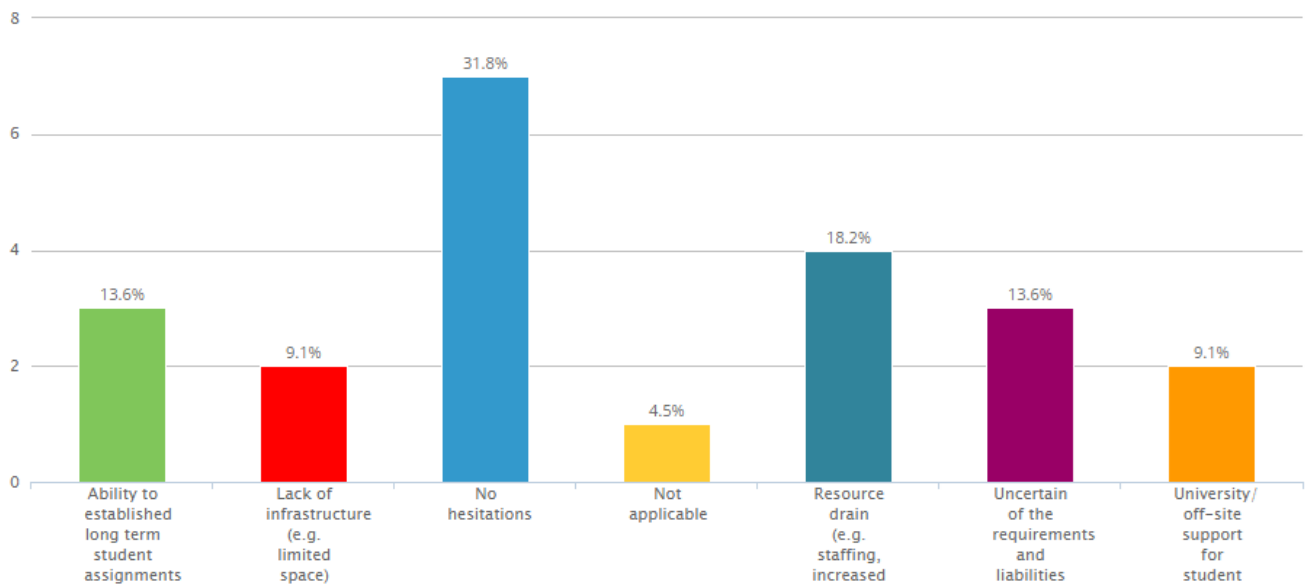


Figure 13 - What hesitations, if any, do you have of hosting a student extern?



PART IV: THE CASE FOR A SOCIAL JUSTICE EXTERNSHIP PROGRAM

Expanding and Deepening Experiential Education Opportunities

The Windsor Law Context

The survey data collected for this Report, alongside the work underway through the curriculum reform process, suggest broad support for expanding social justice experiential education opportunities at Windsor Law. Such a development would build on Windsor Law's rich history of excellence in clinical law. It would also further the law school's commitment to access to justice, which is embedded in the institution's identity and is attractive to many students who have a social justice orientation.¹⁴⁷ One notable limitation of my survey research is that it only explored whether community-based organizations – and not other, more traditional sites of legal practice such as law firms – would have an interest in hosting student externs. The best practices on legal externships presented in this Report would certainly apply to all externships, regardless of the thematic emphasis, but my focus has been on creating more space for systemic justice-based approaches to law.

Windsor Law is currently undertaking a curriculum process, which addresses many of the themes touched upon in this Report. A draft report from October 2014 provisionally identifies the following six pillars of curriculum reform:¹⁴⁸

- (1) Integrate Access to Justice across the curriculum;
- (2) Enhance experiential learning;
- (3) Support active learning;
- (4) Envision holistic lawyers/lawyering;
- (5) Transnational law specialization; and
- (6) Cultivate socially conscious citizens.

It is clear that Windsor Law is committed to expanding and deepening its experiential education offerings. The Curriculum Committee recommended hiring a Director of Externships whose responsibilities could include overseeing the new externship program.¹⁴⁹ Windsor Law recently announced that this new tenure-track position (called "Externship Professor") will indeed be created, and is slated for a 2017 start date. As the best practices literature identified, positions such as this are absolutely integral to ensuring the success of an externship program. Given that Windsor Law also has an Academic Clinic Director, who is responsible for curriculum integration, connecting theory and practice in a clinical context, teaching, as well as administrative supports, the new Externship Professor will add an important layer to the law school's solid experiential education foundation. A Social Justice Externship Program would also be complementary to Windsor Law's Social Justice Career Coordinator position, as many of the externship sites would be considered prospective social justice career opportunities.

Given Windsor Law's longstanding emphasis on access to justice and experiential education, there is currently an opportunity to develop a social justice externship program that complements,

¹⁴⁷ Windsor Law is also recognized for its holistic admissions policy:

"Our admissions program is different from others. It is consciously directed to the facilitating of access to legal education and the legal profession for those who have been disadvantaged due to gender, race, creed, colour, religion or other socio-economic background. We seek out those who have traditionally been barred from higher law study to ensure that Canada's many communities will have access to legal professionals, as that Canada's diverse and varied society can be served from a variety of perspectives." Windsor Law, "Our Admissions Criteria", online: <<https://www.uwindsor.ca/law/343/our-admissions-criteria>>.

¹⁴⁸ Curriculum Reform Committee, "Curriculum Reform Phase II Draft Report", Oct. 28, 2014, on file with author.

¹⁴⁹ *Ibid* at 10.

but remains distinct from, the clinical legal education program. Windsor Law is affiliated with two longstanding legal clinics funded by Legal Aid Ontario (LAO): Legal Assistance of Windsor (LAW) and Community Legal Aid (CLA). These clinics host both social work and law students. During the summer, students are paid for their work through LAO funding. During the year, students variously volunteer or take credit (part time and full time) alongside a credit course. All students who receive credit for their work must enroll in a seminar course.

Windsor Law has also hosted a variety of clinics in addition to LAW and CLA. The Centre for Enterprise and Law (previously IPLIN) is a clinic focusing on intellectual property issues. This clinic has taken various models over the years and, despite successful reincarnations, has had challenges with consistent funding. Windsor also hosted a Mediation Clinic – the law school’s longest-running non-LAO funded clinic – that likewise experienced challenges with maintaining funding. The Law Enforcement Accountability Project (LEAP), funded by the Law Foundation of Ontario and other grants, was unable to continue operating due to reliance on one faculty member and limited funding.

As this brief history demonstrates, without stable funding, clinics at Windsor Law will experience funding challenges. An externship model is a potential avenue to create opportunities for students with limited operational funding. While funding should not be the only reason that an externship program exists in lieu of a clinical program, it is certainly a challenge that Windsor Law has not been able to satisfactorily overcome.

It is also clear from the data noted above that Windsor Law students are eager for more experiential opportunities. Faculty members and administrators are also supportive of pursuing this option. Additionally, the local community organizations that were surveyed responded favourably to the prospect of having law students become part of their teams. It should be noted that many of the community organizations surveyed routinely host social work student placements, creating the potential for interprofessional and interdisciplinary learning environments, the multiple benefits of which have been outlined in this Report. Thus, the environment appears ripe for creating a more permanent externship program in a well-supervised, well-supported, social justice model.

In addition, faculty members and community agencies and NGOs have begun experimenting with externship-like placements. For example, Professors Xavier and Waters work with international NGOs to provide student research and policy support. Professor Smyth and I have collaborated on a policy-based externship related to poverty. Many other professors have worked with students and outside agencies/ NGOs on other work (such as research for a court challenge) in a for-credit model.

There is also potential for a unique cross-border or transnational focus. Windsor is located on the border between Canada and the United States and has curricular relationships with Wayne State University and a full dual degree program with University of Detroit Mercy, both of which have existing externship programs. Although the author has not explored these options explicitly, it appears that a transnational focused program might be an option worth exploring.

For Windsor Law, an externship program will be most coherent if it is grounded in an expansive articulation of social justice, similar to those advanced by Piomelli and Mullaly. The Curriculum Committee’s recommended pillars suggest a potentially transformative approach to legal education, as it was already suggested that the “Access to Justice” pillar encompasses social justice. These reforms would mark a significant departure from the conventional approach to legal education in which attention to social justice tends to be relegated to the clinical law environment. A decision to expand experiential legal education opportunities, and stake out a clear social justice orientation, would also help dispel the myth that work-integrated learning is somehow a less rigorous or important form of legal education.¹⁵⁰

¹⁵⁰ *Supra* note 85.

The Canadian Context

A cursory scan of experiential education opportunities in Canadian law schools reveals that most have one or more clinical programs, although very few seem to have a fully staffed and coordinated experiential legal education program.¹⁵¹ Many of these are student-led legal aid clinics and I came across several examples of specialized clinics based on population groups or substantive areas of law (e.g. Elder Law, Indigenous, Environmental, Business, Human Rights, Defense of Wrongfully Accused).

For the purposes of this Report, there are several clinic or externship models that Windsor Law could explore further. For example, University of British Columbia Faculty of Law's International Justice and Human Rights Externship, which is a year-long clinic in which a term of study is followed by students working on cases with various international organizations.¹⁵² Université Laval Faculté de Droit has a community-based internship that places students with not-for-profit organizations that have legal needs.¹⁵³ At McGill University, students are offered placements within community organizations, and there is also a 12-week, for-credit summer internship in Human Rights.¹⁵⁴ From 2007 to 2011, University of Toronto's Faculty of Law piloted a Health Equity and Law Clinic, in which students supported various national and international organizations through legal research, analysis and advocacy.¹⁵⁵ University of Victoria Law offers a comprehensive law co-operative education program that places fifty-five students each year in 12-week placements.¹⁵⁶ The Faculty of Law at the University of Ottawa offers JD students a Social Justice Option, which includes a compulsory course in social justice and the law, several optional courses totaling 15 credits, and must write a major paper in an approved course. Students are also given the option of selecting one of several social justice oriented moot competitions.¹⁵⁷

The Externship's Role in Advancing Social Justice

As critical legal scholars Peter Gabel and Duncan Kennedy noted more than 30 years ago, legal education effects "a weird dissociation" between the lawyer and human being; upon entry into law school, students are lured, often unwittingly, into accepting an "ideological framework".¹⁵⁸ This insidious process is integral to law students' professional identity formation. The conventional case dialogue method of legal education reinforces the view that the most effective lawyers – indeed, true lawyers – are those who detach their feelings and emotions from the particular legal problem at hand. As Beverly Balos writes:

The traditional concept of lawyer conduct includes the following: lawyers are adversarial rather than collegial, competitive rather than cooperative, rational rather than emotional, focused on winning rather than problem solving, and perform as amoral technicians utilizing their legal skills to achieve their clients' goals. One side of these dichotomous traits define what being a lawyer is; the other side defines what a lawyer is not.¹⁵⁹

¹⁵¹ Environmental scan on file with author.

¹⁵² Peter A. Allard School of Law, The University of British Columbia (10 September 2015), online: <<http://www.allard.ubc.ca/ijhr/international%20justice%20and%20human%20rights%20clinic>>.

¹⁵³ Université Laval Faculté de droit, (10 September 2015), online: <<https://www.fd.ulaval.ca/stages-et-formation-pratique>>.

¹⁵⁴ Faculty of Law, McGill University (10 September 2015), online: <<https://www.mcgill.ca/internships/programs/law>>; <<https://www.mcgill.ca/humanrights/clinical/internships>>.

¹⁵⁵ Faculty of Law, University of Toronto (10 September 2015), online: <<http://www.law.utoronto.ca/programs-centres/legal-clinics/health-equity-and-law-clinic>>.

¹⁵⁶ Faculty of Law, University of Victoria (10 September 2015), online: <<http://www.uvic.ca/law/jd/lawcoop/index.php>>.

¹⁵⁷ Faculty of Law, University of Ottawa (10 September 2015), online: <<http://commonlaw.uottawa.ca/en/students/academic-affairs/course/social-justice-option-jd>>.

¹⁵⁸ Peter Gabel and Duncan Kennedy, "Roll over Beethoven" (1984) 36 *Stan L Rev* 1 at 26.

¹⁵⁹ Beverly Balos, "The Bounds of Professionalism: Challenging Our Students; Challenging Ourselves" (1997) 4 *Clinical L Rev* 129 at 139.

If law is to be used to advance social justice, we must begin to uproot the foundations of this binary approach. The best place to start, it seems, is in law schools.

Carrie Yang Costello, who has studied professional identity formation in the context of law and social work, notes that it is the expectation of developing a professional identity that distinguishes professions from other occupations, and joining a profession can fundamentally alter our identities.¹⁶⁰ She writes: “Our assumptions and worldviews, our tastes, postures and gestures, and our emotional orientations make up the main mass of our identities, and yet we are generally unaware of them.” Yang Costello provides helpful language for understanding the process that is all too common for law students, particularly in their first year. Yang Costello defines “identity consonance” as the experience of one’s new identity meshing with other personal identities. If too many aspects of the new professional role clash with the individual’s personal identity, s/he will experience “identity dissonance,” which is often marked by generalized anxiety and feelings of inauthenticity. Strategies for coping with identity dissonance include altering your personal identity to better mesh with the new professional identity, completely rejecting the new professional role (i.e., dropping out), remaining in the program but continuing to display components of your identity which conflict with the professional role, attempting to retain both identities by segregating personal and professional identities, or attempting to maintain both identities and to deny that the dissonance between them presents a problem.¹⁶¹

Clinical lawyers and scholars have long understood the immense learning opportunities, not least of which revolves around professional identity, that come with students’ experiences working in legal clinics.¹⁶² Not until recently, however, has the work being done across the various sites of clinical legal education been given some modicum of respect, or at least interest, from the mainstream legal profession. This new attention has been aided by the significant studies of legal education that I referred to in Part 2 of this Report. While much of that work was done in the U.S., many of the findings are equally relevant to the Canadian context. The attention has also stemmed from the growing recognition that status quo in Canada is, quite simply, failing from an access to justice perspective.

Lorne Sossin, the dean of Osgoode Hall Law School, writes about the current importance of experiential education:

Experiential education is an effective way to explore the normative content of legal education. It is also a mechanism for ensuring legal education remains relevant, responsive and outwardly focused. This is so for at least 2 reasons. First, many experiential programs are offered in collaboration with clinics and external groups who are all seeking to deploy law to serve specific purposes for their clients. Seeing first-hand the impact of the lived experience with law, and the contexts in which laws fall short, requires students to confront their ideas about justice. Second, experiential learning through community collaboration reinforces the value of legal services. This in turn shines a needed spotlight on concerns about who is able to access those services, and at what cost – and what happens to those who cannot.¹⁶³

As the Supreme Court of Canada’s Chief Justice Beverly McLachlin recently remarked in a speech, “Creativity, empathy, adaptability, resilience and breadth of perspective are essential to today’s

¹⁶⁰ Carrie Yang Costello, “Who are you? Identity theorized” in *Professional Identity Crisis: Race, Class, Gender, and Success at Professional Schools* (Nashville: Vanderbilt Press, 2005) 17.

¹⁶¹ *Ibid.*

¹⁶² Laurie A Morin & Susan L Waysdorf, “The Service Learning Model in the Law School Curriculum” (2011/12) 56 *NYL Sch L Rev* 561 at 572: “Many clinical scholars and legal educators have recognized that the goal of educating students about their social justice responsibility would best be met if it permeated the law school curriculum.”

¹⁶³ Lorne Sossin, “Experience the Future of Legal Education” (2013) *Comparative Research in Law & Political Economy*. Research Paper No. 47/2013, online: <<http://digitalcommons.osgoode.yorku.ca/clpe/289>>

lawyers. Developing those qualities may require changes to legal education.”¹⁶⁴ Chief Justice McLachlin went on to cite the CBA Futures Initiative’s recommendations, which include a broadened and multidisciplinary curriculum, and increased practical experience through supervised apprenticeships in the middle of law school. The CBA’s Access to Justice Committee has recognized the benefits of holistic, multidisciplinary approaches: teams of lawyers, paralegals and social workers “can deliver more comprehensive and holistic services tailored to people’s needs.”¹⁶⁵ In *Reaching Equal Justice*, the CBA stated: “All graduating law students should have a basic understanding of the issues relating to access to justice and know that fostering access to justice is an integral part of their professional responsibility.”¹⁶⁶

As clinical legal scholars have cautioned, though, “[a]ccess to justice cannot be seen as a commodity transaction in which providing a greater quantity of legal information or legal services will solve the problem.”¹⁶⁷ Studies on experiential legal education in the U.S. reveal that the vast majority of students engaged in field placements believe the experience significantly improves their marketability and skills.¹⁶⁸ There are funding challenges associated with clinical education in both the U.S. and Canada,¹⁶⁹ but externship programs have the potential to be much less costly.¹⁷⁰ This should not, of course, be the sole determinant for developing an externship program. There is also the danger of law schools using experiential legal education programs primarily as a marketing tool. In this climate, the challenge is to “elevate” those involved in experiential legal education beyond their current status of “second-class citizens”.¹⁷¹

As Smyth and colleagues write in their forthcoming book on clinical law in Canada, “Canadian legal clinics are by and large founded on principles of social justice, social change, and service to marginalized communities. Given recent attention to access to justice on a national level alongside renewed emphasis on practice-based education for new lawyers, legal clinics are uniquely positioned to reflect on these aims and enact them.”¹⁷² As this Report has suggested, social justice externship settings would also be ideally suited to address many of these access to justice concerns. Where possible, law students should have the chance to work on these problems across disciplinary and professional boundaries. Given that Windsor Law is only one of three schools in Canada with an MSW/JD program, social work could be a useful starting point.

I am envisioning a social justice externship model that would provide many opportunities for students in law and social work to advance social justice while experiencing both the rigid and porous qualities of disciplinary and professional boundaries. Commitment to working alongside communities requires constant reflection on power dynamics, and the willingness to surrender the comfort that the acquisition of professional knowledge can bring. This intentional process could involve law and social work students working to challenge their assumptions about their and others’ respective professions. These dynamics already occur in many clinical law settings. Many mainstream legal professionals assume that law students working in clinical settings are doing “social work, not law”.¹⁷³ When law and social work are situated together, there are also professional hierarchies to be dismantled. The legal profession hovers well above social work in

¹⁶⁴ Beverly McLachlin, “The Legal Profession in the 21st Century” (Lecture delivered at the 2015 Canadian Bar Association Plenary, Calgary, Alberta, 14 August 2015), online: <<https://malcolmmccer.files.wordpress.com/2015/08/cj-mclachlin-remarks-august-14-2015-2015-cba-legal-conference.pdf>> at 18.

¹⁶⁵ *Supra* note 11 at 27.

¹⁶⁶ *Ibid* at 32.

¹⁶⁷ *Ibid* at 19.

¹⁶⁸ Robert R Kuehn & David A Santacroce, “2013-2014 Survey of Applied Legal Education” (February 17, 2015), online: <<http://ssrn.com/abstract=2566484>>.

¹⁶⁹ *Ibid*; *Supra* note 85.

¹⁷⁰ Martin J Katz, “Understanding the Costs of Experiential Legal Education” (2014) 1 J Experiential Ed 28.

¹⁷¹ Porter at 82.

¹⁷² *Supra* note 85 at 2.

¹⁷³ *Supra* note 21.

terms of earning power and social status (if not public opinion). This is bound up with the mystification of law that has roots in its power and purported objectivity. The interdisciplinary social justice externship can be a site where students fiercely resist the law's impulse to colonize other disciplines and perspectives.

Many clinical scholars and practitioners cite the clinical law setting as holding the greatest possibility for adopting a social justice orientation that mimics social work's, particularly when law and social work services are offered under the same roof.¹⁷⁴ As noted elsewhere in this Report, this type of setting is conducive to increased interprofessional understanding, and there are numerous examples of interdisciplinary clinical law settings that have relied upon social work to advance a more client-centred approach to practice.¹⁷⁵ While clinical settings are often identified as the sites of change simply by virtue of the populations they serve, we cannot assume that physical co-habitation will in itself lead to meaningful interdisciplinary outcomes. Without the proper institutional support for a collaborative social justice mandate, genuine collaboration between law and social work is exceedingly difficult to achieve.¹⁷⁶ This challenge is, in large part, attributed to lawyers and social workers having vastly different worldviews. As Aiken and Wizner write: "Law assumes a level playing field, and as such, lawyers often define justice according to whether a procedure is fair and applied equally. Social workers, on the other hand, come to their profession with an abiding sense that the playing field is not level and that their job is to search for justice as a substantive matter."¹⁷⁷ Having institutional support for a social justice externship program would provide fertile ground on which to advance social justice while cultivating a truly interdisciplinary, collaborative culture. As I have outlined in this Report, however, such characterizations often flow out of the dominant view within each of the professions. There is significant overlap between the visions of social justice lawyering and structural social work practice that have been advanced by theorists and practitioners over the last twenty years.

In an interesting study of student competencies in macro social work practice, Cheryl Regehr and colleagues note the relatively scarcity of research in this area. Macro practice field placements comprise only 10% of all MSW field placements and macro concentrations in MSW programs are rare.¹⁷⁸ The majority of studies on social work practice preferences among students show direct practice being favoured over macro practice.¹⁷⁹ The following competencies have been put forward as necessary for advocacy practice in social work: self-awareness and cultural competency, engagement, problem identification and assessment, facilitating constituent self-determination and empowerment, verbal and written communication, weighing the ethical implications of strategies, taking action, and evaluating outcomes.¹⁸⁰ As the authors write:

From the participants' rich descriptions it appears that strong students at this level in their practice development demonstrate initiative and self-direction in all areas of the practicum. This is observed by field instructors in the students' ability to articulate their learning needs and find opportunities to meet those needs; in having confidence; being independent, versatile, and flexible; and being able to work on one's own and produce high-quality work. High levels of competency also involve strong conceptual and analytic ability as seen in critical thinking and the use of diverse theoretical perspectives, being open-minded, and thinking broadly and from a social justice and empowerment perspective. Strong performance also includes the capacity to form and maintain respectful professional

¹⁷⁴ *Supra* note 25.

¹⁷⁵ *Ibid*; *supra* note 19.

¹⁷⁶ *Supra* note 19.

¹⁷⁷ *Supra* note 21 at 79.

¹⁷⁸ *Supra* note 65 at 308.

¹⁷⁹ *Ibid*.

¹⁸⁰ *Ibid* at 309, citing Donna Hardina & Ruth Obel-Jorgensen, "Increasing Social Action Competency: A Framework for Supervision" (2009) 8:2 J of Policy Practice 89.

relationships – with colleagues in the workplace, in productive work in teams, and with a wide range of community stakeholders. As well, strong qualities include cultural competence, the ability to work with marginalized client groups, and the ability to hear and consider divergent opinions.¹⁸¹

When this picture of the strong social work student in a macro/indirect practice setting is considered alongside the best practices in externships, it seems that there is a great deal of convergence around competent, ethical law and social work practice.

Creating more experiential education opportunities in the area of social justice could play a role in disrupting the tunnel vision focus on Bay Street that is so common in Ontario law schools. One consequence of the disproportionate emphasis that many law schools place on preparing law students for employment with Bay Street law firms is the marginalization of all other types of law practice. Windsor Law has sought to counteract this by hiring a part-time Social Justice Career Coordinator. While this has no doubt helped provide students with more support in seeking out non-traditional employment, greater clarity is still needed around what it means to be a “social justice lawyer”. In the absence of an agreed upon definition of “social justice,” it will be too easy to lump together all lawyering roles that fall outside of the mainstream as “alternative” careers, examples of which at Windsor Law have included military law, various roles in government, and in-house counsel positions, even when the type of lawyering required in these roles reinforces, rather than advances, social justice.

The reality is that most experiential education opportunities focus on direct rather than indirect practice. In this Report I have gravitated more toward the creation of indirect practice/systemic advocacy placement opportunities. An example of an indirect practice clinic would be one focused on community organizing, in which students work alongside community groups to advocate for issues such economic/social justice.¹⁸² Many externship placements offer students some combination of direct and indirect practice experience. As the feedback from Professor Smyth’s Poverty and Social Policy Pilot underscored, there is a clear need for placements that provide students with experience in a type of systemic, community-based advocacy that vastly depart from the “Lone Ranger” approach to lawyering.

A core part of a social justice externship program should be a commitment to working alongside, rather than for, community. Many social justice lawyers in the last twenty years have advocated for this approach.¹⁸³ This requires the law student/lawyer to reflect on what role s/he inhabits in a given setting.¹⁸⁴ In social work, this type of awareness is often termed “professional use of self”. When viewed against the backdrop of mainstream legal education and culture, this is a radical proposition. One reason it might seem so radical for law is the disembodied approach that mainstream law takes. The purported objectivity of law requires stripping away history, context, politics; virtually erasing the people at the heart of the “case”. Some lawyers argue that modern social justice lawyering might best be termed “collaborative” or “democratic,” as these terms draw attention to the inescapable power dynamics inherent in the lawyer-client relationship.¹⁸⁵ As Piomelli writes, “at its core, collaborative lawyering is an effort to practice, promote, and deepen democracy – more precisely, a participatory democracy in which individuals and communities flourish by unleashing their full energies and potential in joint public action.”¹⁸⁶ The individual and

¹⁸¹ *Supra* note 65 at 315.

¹⁸² *Supra* note 81.

¹⁸³ Sameer Ashar, “Law Clinics and Collective Mobilization” (2008) 14 *Clinical L Rev* 355; *Supra* note 74.

¹⁸⁴ Sameer Ashar, “Public Interest Lawyers and Resistance Movements” (2007) 95 *Cal L Rev* 5; Eduardo R C Capulong, “Client Activism in Progressive Lawyering Theory” (2009) 16 *Clinical L Rev* 109 at 121.

¹⁸⁵ Ascanio Piomelli, “The Democratic Roots of Collaborative Lawyering” (2005-2006) 12 *Clinical L Rev* 541.

¹⁸⁶ *Ibid* at 548.

the system are mutually constitutive. Social justice lawyers, like structural social workers, are always working within and against the system.¹⁸⁷

A clear understanding of what we mean by “social justice” will be fundamental in shaping the contours of the broader externship program. It is the foundation from which to build innovative, systemic approaches to law. Piomelli writes:

For the past forty years, the predominant view among public interest lawyers has been that our objective is to achieve particular policy outcomes or shifts in legal doctrine or statutory or regulatory interpretation that further the interest of our clients. In a phrase, the aim has been law reform. The primary problem to remedy, in this view, is the legal and political system’s failure to adopt policies favorable to low-income and other marginalized groups and to formally recognize their legal claims. The lawyer’s purpose is to obtain favorable legal and policy outcomes on behalf of her clients.

In the past two decades, a growing chorus of social justice lawyers and lawyering theorists has urged that our ultimate goal ought instead to be building the power of our clients and their communities to directly shape their own lives and world. Advocates of this approach...view the ultimate condition we seek to reverse as political, economic, and social *subordination*. Subordination manifests and perpetuates itself through practices that presume that some people matter and some don’t, that some people merit consulting and some don’t, that some people should shape the contours and rules of our society and some need not. Subordination fuels and freezes material and spiritual deprivation. These social justice lawyers consequently focus on fostering clients’ and communities’ ability to act collectively with others in coordinated public efforts across legal, political, social, economic, and cultural spheres.

The goal is to build the power of “ordinary” – non-affluent, non-expert, non-privileged – people and communities to shape their circumstances and living conditions. The aim is not only to win particular rights or policy outcomes, but to pursue them and win them in ways that enhance clients’ and communities’ power to win future struggles and to preserve those victories. Building power is the ultimate goal, particularly the power to act in concert with others. Knowing this discourse and deciding for ourselves what we are striving to achieve helps guide us in moments of uncertainty and enables us to reshape our practices to better fit our aspirations.¹⁸⁸

Piomelli’s articulation, taken alongside Mullaly’s vision of structural social work outlined in Part 1, provides the foundational values and principles for a social justice externship program.

An experiential legal education opportunity that reflects these values and principles is not without precedent. In fact, Piomelli has created a social justice, policy-focused clinic at the University of California Hastings College of Law. This Community Group Advocacy and Social Change Lawyering Clinic, is aimed at students who are interested in a career in social change lawyering. It is important to note that American universities use the word “clinic” to include placements with professors within the law school, which is the case in this clinic, in which Piomelli supervises and teaches. This Clinic involves teams of 2 and 3 law students working 16-20 hours per week on a defined project throughout the semester under the supervision of a local social justice lawyer. The students participate in a weekly seminar that focuses on building skills and strategies in such areas as grassroots lobbying, legislative drafting, community organizing, community legal education, and media campaigns. A distinctive feature of this Clinic is that it is rooted in principles of democratic lawyering: “Collectively, the projects introduce students to the broad range of

¹⁸⁷ Gerald P López, “Changing Systems, Changing Ourselves.” (2009) 12 Harv Latino L Rev 15.

¹⁸⁸ *Supra* note 70 at 182 – 183.

approaches to making social change and to working as partners *with* community activists and groups, rather than simply navigating the legal system *on their behalf*.”¹⁸⁹

Piomelli’s articulation of social justice lawyering is an excellent foundation for a social justice externship framework. In Part One of this Report I discussed the importance of interprofessionalism and interdisciplinarity between law and social work. Social justice externships have the potential to create rich learning across professional and disciplinary boundaries, so we should be intentional about creating the types of environments that will be most challenging and rewarding for students in this regard. Legal Assistance of Windsor is well regarded for its unique approach that integrates law and social work.¹⁹⁰ A social justice externship should build on these and other models, which allow students to step out of the confines of positivist legal education – which reinforces a rigid, objective portrayal of the legal system – to the more fluid, “messy” reality of working in the field.¹⁹¹

Structural social work provides a useful lens for creating a robust notion of social justice lawyering that avoids some of the linguistic pitfalls associated with neoliberalism. So ubiquitous have terms like “empowerment” and “strengths-based approach” become in social work that we have to be careful to situate them politically. As Cowger and others argue, “When the helping process focuses on teaching new ways to accommodate to experiences of oppression, personal empowerment will not be achieved. When personal empowerment is an objective, the uniqueness of each situation is acknowledged *and* the political context is illuminated so that the person(s) seeking help can recognize the ways s/he has already fought against oppressive experiences and will begin thinking about how to achieve a socially just result for her/himself and others.”¹⁹²

While some social workers undoubtedly use the strengths perspective as a way to cover over systemic barriers, its founders were more intent on using it as a counterbalance to the prevailing medical model’s obsession with individual pathologies. As Saleeby writes, “Social work has constructed much of its theory and practice around the supposition that clients become clients because they have deficits, problems, pathologies, and diseases; that they are, in some essential way, flawed or weak.”¹⁹³ The focus on pathology has many consequences: the person is equated with the problem; the problem focus leads to professional pessimism about the a person’s capacities; the problem focus leads to a depersonalized relationship between helper and helped; it leads to decontextualization, and; it oversimplifies the situation through prescriptive solutions.¹⁹⁴

In a similar vein, critics have suggested that anti-oppressive practice (AOP) implicitly reinforces the notion of state neutrality, and therefore also positions the social worker as the enforcer of “new moral codes of behaviour on the recipients of welfare services,”¹⁹⁵ and that empowerment theory is flawed in that, “to become who one truly is, and do what one truly wants, one has to absorb [the social worker’s] definitions, interpretations, and prescriptions”.¹⁹⁶

Foundational training for a social justice externship should include an expansive, systemic approach to anti-oppressive practice. This approach should address the shortcomings of traditional

¹⁸⁹ University of California Hastings College of Law (10 December 2014), online:

<<http://www.uchastings.edu/academics/clinical-programs/clinics/group-advocacy-change/index.php>>.

¹⁹⁰ *Supra* note 19.

¹⁹¹ *Supra* note 85; Ross Hyams, “The Benefits of Multidisciplinary Learning in Clinical Practice for Law, Finance, and Social Work Students: An Australian Experience” (2013) 33:2 *J of Teaching in Soc Work* 159.

¹⁹² Charles D Cowger, Kim M Anderson, & Carol A Snively, “Assessing strengths: The political context of individual, family, and community empowerment” in Dennis Saleeby, ed, *The strengths perspective in social work practice* (4th ed) (Toronto: Allyn and Bacon, 2006) 93 at 96.

¹⁹³ Saleeby, *supra* note 57.

¹⁹⁴ *Ibid* at 4 – 6.

¹⁹⁵ Kenneth McLaughlin, “From Ridicule to Institutionalization: Anti-oppression, the State and Social Work” (2005) 25:3 *Critical Soc Pol’y* 283 at 285.

¹⁹⁶ *Supra* note 56 at 124.

approaches to cultural competence, which are apolitical and can reinforce colonial dynamics.¹⁹⁷ Dominelli defines AOP as:

A form of social work practice which addresses social divisions and structural inequalities in the work that is done with people whether they be users ('clients') or workers. AOP aims to provide more appropriate and sensitive services by responding to people's needs regardless of their social status. AOP embodies a person centred philosophy; an egalitarian value system concerned with reducing the deleterious effects of structural inequalities upon people's lives; a methodology focusing on both process and outcome; and a way of structuring relationships between individuals that aims to empower users by reducing the negative effects of social hierarchies on their interaction and the work they do together.¹⁹⁸

The literature on externships has identified the importance of experiential education in helping law students to develop cross-cultural and intercultural effectiveness.¹⁹⁹ In the context of field placement, students have a unique opportunity to confront and reflect on their biases and privilege, and develop awareness of the fluidity of their identities across different contexts of practice.

¹⁹⁷ Izumi Sakamoto, "An Anti-Oppressive Approach to Cultural Competence" (2007) 24:1 Can Soc Work Rev 105.

¹⁹⁸ Lena Dominelli, "Deprofessionalizing Social Work: Anti-Oppressive Practice, Competencies and Postmodernism" (1996) 26:2 Br J Soc Work 153 at 170-71.

¹⁹⁹ See e.g. Mary Lynch, "The Importance of Experiential Learning for Development of Essential Skills in Cross-Cultural and Intercultural Effectiveness" (2004) 29:1 J of Experiential Learning 129.

PART V: SUMMARY OF RECOMMENDATIONS

The following are recommendations for the creation of a Social Justice Externship Program at Windsor Law. These recommendations are based on the best practices in

Thematic Focus Areas

Social Justice Focus; Emphasis on Direct and Indirect Practice; Interdisciplinary Focus; Transnational Focus

- 1) Windsor Law should create a unique Externship Program with a Social Justice focus that aligns with the school's mission and curricular objectives.
 - a) The Social Justice Externship Program should place special emphasis on both direct and indirect learning and practice experiences.
 - b) The Social Justice Externship Program should make efforts to include placements with significant interdisciplinary and transnational focus.

Nature of Placements

- 2) Placements should include the current Social Justice Fellowship Program and a menu of other current and new placement opportunities.
 - a) Windsor Law should also consider the relationship between Pro Bono Students Canada and placements within the Externship Program, particularly if a better-integrated curricular experience is available through the Externship Program.
 - b) Clinics (CLA, LAW, LTEC) should be kept distinct from the Externship Program, although coordination between the programs should be encouraged where appropriate.
 - c) Placements in a purely for-profit environment should be rejected unless the placement demonstrates a social justice, interdisciplinary and/or transnational focus.
 - d) Placements could occur in Windsor or elsewhere in Canada or internationally.

Curricular Integration

- 3) Ideally, the Social Justice Externship Program should be aligned with the program learning outcomes and build cumulatively on other learning experiences. Externships could either be built as capstone learning experiences or as second year optional experiences. Whether the placement is second or third year depends upon the learning experience and goals.
 - a) Any field placement supervisors (on-site supervisors) should *at minimum* be given significant written material on how to be an effective supervisor. Preferably, supervisors should have to attend an introductory workshop on the program, goals, and methods of supervision. Supervisors should be offered follow-up training and significant support, especially in the initial stages.
 - b) The Social Justice Externship Program should begin with an orientation for students.
 - c) The Social justice Externship Program should be paired with an integration class. This class would ensure integration of learning and legal theory. Elements of the class would preferably:

- i) Provide students with clear and explicit statements about learning objectives and assessment criteria;
- ii) Provide a base vocabulary for the nature of social justice practice, ecology of practice including indirect and direct practice, theory of change (especially policy change), the nature of inequality and the role of the law in maintaining inequality (preferably scaffolded with the Access to Justice course),
- iii) Focus on educational objectives that can be achieved most effectively and efficiently through experiential education; these objectives include assisting students in:
 - adjusting to their professional role;
 - becoming competent legal problem-solvers;
 - developing professional and interpersonal skills;
 - learning how to learn from experience, and;
 - developing the ability to think and act reflectively, reflexively and critically.
- d) Meet the needs and interests of students.
- e) Grant appropriate credit.
- f) Record student performances.
- g) Train those who give feedback to employ best practices.
- h) Train students to receive feedback.
- i) Help students identify and plan how to achieve individually important learning goals (writing learning agreements, learning plans and/or education plans).
- j) Give students repeated opportunities to perform tasks, if achieving proficiency is an objective. This includes giving students repeated opportunities to fail.
- k) The program might also wish to only accept students with a certain average in Access to Justice or another foundational course that would ensure the student understands basic approaches to social justice lawyering.

Coordination/Administrative – Externship Professor

- 4) Windsor Law should hire a full time Externship Professor. Ideally, this person would work collaboratively with the Academic Clinic Director to create complementary education programs and placements.
 - a) The Externship Professor should, at minimum, have knowledge of the pedagogy of place-based and experiential learning.
 - b) The Externship Professor should have an administrative support person in the initial stages of the program. The Externship Professor should be responsible for securing placements.
 - c) If the program grows to a significant size, the University should hire one or more placement specialists to coordinate and supervise students.²⁰⁰
 - d) The program should have a clear dispute resolution policy for students and supervisors who experience difficulties.
 - e) The program should have clear policies about insurance, WSIB and other safety and liability-related issues.
 - f) The program should have an Advisory Board that supports its goals and acts as a body both to promote and improve the program over time.

²⁰⁰ At Vanderbilt University for example, the law school's Social Justice Program has a Social Justice Placement Specialist to ensure students are paired up with supervisors/mentors who share their interests and learning objectives and are placed in externships that are well suited to both their skills and their career goals. The Placement Specialist is a central figure who oversees all social justice initiatives and is well positioned to secure a compatible externship for students, wherever their particular interest may lie. ("Social Justice Program": Vanderbilt Law School (7 December 2014), online: <<http://law.vanderbilt.edu/academics/academic-programs/social-justice-program>>.

Law Society

- 5) The Law Society of Upper Canada is paying increased attention to experiential education opportunities and unauthorized practice of law. In the model suggested above, it is possible that students might provide legal advice under the supervision of lawyers; however, the model relies primarily on context in which students will not be giving legal advice to clients. Nonetheless, Windsor Law should clarify the types of placements that would be captured under the LSUC's Rules of Professional Conduct.

CONCLUSION

With so much current attention on the need to improve access to justice, and to close the gap between legal education and the legal profession, this is an opportune moment to explore the role externships can play in responding to these challenges.

For Windsor Law specifically, which is in the midst of an important curriculum reform process, there is an opportunity to develop a unique externship program that builds on the school's longstanding commitment to access to justice, experiential education and interdisciplinarity. While "social justice" can be defined in many different ways, in this Report I have suggested that Windsor law should consider adopting a definition that reflects the core theories and principles emerging from social justice lawyering and structural social work.

While I have recommended a program that offers law students a blend of direct and indirect practice experience, there is particular value in creating more for-credit opportunities in indirect practice settings. This focus will help broaden students' understanding and experience of lawyering. It will open the door to more opportunities to work across disciplinary and professional boundaries, and to work alongside communities that experience various forms of oppression and marginalization.

As the data presented in this Report suggest, there is support within the Windsor Law community for creating more experiential education opportunities that focus on advancing social justice, and for better coordinating the range of social justice oriented opportunities currently offered. Among local community-based organizations, there is also a great deal of interest in the prospect of hosting law student externs.

If the goal is to change the culture of the legal profession by cultivating lawyers who are creative, empathic, adaptable, resilient, and broad-minded,²⁰¹ a social justice externship program provides another vehicle – alongside clinical law programs – through which to pursue this goal. Fortunately, the growing evidence on best practices in legal externships provides a solid foundation on which to build such an externship program.

²⁰¹ *Supra* note 164 at 18.

APPENDIX 1

Pathway to Potential Externship Pilot Program

Evaluation Report

Submitted by: Professor Gemma Smyth

Date: June 30, 2015

Introduction

This report examines the results of interviews with staff and students who participated in a social justice, policy-focused externship pilot project. In this externship, Windsor Law students were employed at Pathway to Potential (P2P), a poverty reduction collaborative in Windsor-Essex. This evaluation was one of two completed for the purposes of examining development of an externship program at Windsor Law. The other report was completed by Adam Vasey, Law Foundation Fellow at Windsor Law. Mr. Vasey's report is available separately, and deals with some of the theoretical foundations of externship programs. This report was funded by a small Centred on Learning Innovation Grant provided through the Centre for Teaching and Learning. Funding supported the work of a research assistant, Mr. Leo Gil.

This report sets out student and staff feedback based on the externship. It also outlines elements of a successful externship of this type. This report is based on interview data but does not engage with specifics regarding, for example, curriculum integration or funding. This data is usefully supplemented by the significant amount of research on externship development, primarily from the United States, outlined in Mr. Vasey's report.

In this externship program, students completed a full time, paid summer placement with no formal credit or class attached. Students were then offered the opportunity to complete a directed research project with a faculty member in Law. All students took this opportunity. This paid placement/ research credit model was intended to ensure a more traditional research approach to the externship as well as to provide more formal research to P2P. This externship was also explicitly interdisciplinary and social justice and policy focused, rather than the more typical law firm-based, individual client focused externship placements available in other jurisdictions. There are many ways an externship program can be organized, as Mr. Vasey's report will identify. This model tested a unique approach reflecting the access to justice mission of Windsor Law.

Part 1 gives further background to the externship project. Part 2 sets out the Research Ethics and Methodology. Part 3 describes the backgrounds and experiences students who were placed at P2P, as well as staff perspectives on student learning. Part 4 describes the P2P organizational perspective and the interdisciplinary nature of the program. Part 5 describes the various curricular and pedagogical issues discussed by research participants. Part 6 summarizes the elements of a successful externship program of this type. If the reader is pressed for time, Part 6 is the most useful section to peruse. Part 7 describes potential contributions of Windsor Law to the ongoing success of this program from the viewpoint of P2P staff and students.

Part 1: Program Description & Background

This Externship placement aligned with Mr. Vasey's Law Foundation Fellowship project, which investigated the possibilities of interdisciplinary, policy-focused and other social justice-based placement opportunities for Windsor Law students. The Faculty of Law has discussed the idea of creating externships, which, because of Windsor's size, access to justice focus and geography, would require creative examination of student opportunities.

This initial externship piloted a model in which law students were placed for one summer full time in a paid placement.²⁰² Students were invited to apply for these positions and interviewed by the Director. After the summer placement, students were encouraged but not mandated to complete a directed research project with a Windsor Law faculty member engaged with placement-related research. All students took up this opportunity.

P2P was chosen as a pilot site due to the Director's education (LLB, LLM, MSW), his Law Foundation of Ontario Fellowship with Windsor Law, and history of working with students including those in social work, nursing, marketing, and other programs. While this placement site has an unusually deep history with Windsor Law. This history might limit how generalizable these results will be for other potential placement sites; however, the placement was also considered low risk for initial student placements and aligned with the social justice mission of Windsor Law.

P2P has significant experience hosting full- and part-time students from an array of disciplines, and its orientation to students may be considered unique among possible placement sites. Students were, as one staff said, "set them up for success". Another articulated: "we always prioritize the learning of students... and make that a really foundational part of how we do our work and providing those learning opportunities and allowing space for students to really make a contribution to Pathway to Potential." This affected the externs' learning, evidenced later in this report.

²⁰² Payment was the fortunate byproduct of funding; however, student payment is not typically part of an externship placement program. The effects of payment are discussed later in this document.

Part 2: Research Ethics and Methodology

This report was granted REB approval by the University of Windsor's Research Ethics Board under the title "Community-based Externship Evaluation Project". Individual interviews with students occurred at the Faculty of Law. Interviews with staff took place at Pathway to Potential, 80 Chatham St. E. All interviews were audio recorded. Participation in the study was voluntary. Subject response rate was 3 of 4, or 75%. Employer/ placement supervisor response was 2 of 2, or 100%.

Due to ethical concerns, interviews were completed by Mr. Leo Gil, a Masters of Social Work student. Mr. Gil transcribed the responses and created codes for respondents. The Principal Investigator (PI), Professor Gemma Smyth, analyzed the data, along with Mr. Gil. As noted in the REB application, the respondents' information was confidential but potentially not anonymous because of the small sample size. Efforts have been made to anonymize student data by removing any identifying information (i.e. previous identifying job experiences). Responses from the staff might reveal their identities. Again, given the low risk nature of this study, this risk was foreseeable and precautions were taken to minimize conflicts of interest.

Per the REB application, interview questions adopted a semi-structured, open format, wherein the interviewer followed a set of specific, pre-determined questions, but occasionally decided to explore participants' answers with further questions to gain more relevant information. All interviews took place after the summer portion of the placement was complete.

The student survey (Appendix A) was designed to elicit students' perceptions of their learning, the quality of their experience, how well or poorly they were prepared, what additional education would have been useful, whether they were impacted by financial remuneration, and any other relevant considerations. The supervisor survey (Appendix B) was designed to elicit supervisors' perceptions of students' preparation, the value to the organization, strengths and weaknesses of the program.

Data was mostly qualitative in nature, along with several short, quantitative Likeart scale questions. Given that the researchers did not approach this data with a particular pre-determined theory, the researchers used thematic analysis and an inductive approach. We used an essentialist or realist approach in which the subjects reported meaning of their experience with little interpretation required. We used a semantic approach in which the explicit or surface meaning was taken, rather than looking for hidden themes. The PI considered this appropriate given the nature of the subject (curriculum and program reform). The researchers looked for prevalence in responses and themes, but since the data set was small prevalence was given less weight. The researchers also looked for outlier or otherwise noteworthy responses.

Part 3: Students' Experiences

This externship required a pre-placement interview. All students expressed an interest in social justice and/or access to justice before beginning the placement. Students were from different academic backgrounds and political orientations, but shared several characteristics. First, most students had little to no familiarity with the Windsor-Essex community. All students had previous work and volunteer experience in community organizations. All had previous legal clinic experience, two as volunteers at Community Legal Aid (CLA) and one in another Toronto-based clinic. All students were entering their second or third year at Windsor Law.

What Did Students Do?

Students were assigned a particular portfolio in an area relevant to the current work at P2P, including living wage, food security, transportation policy the municipal election and social enterprise. Students completed research both formal and informal in legal and sociolegal areas. They learned about and engaged with formal and informal policy. They designed advocacy initiatives and campaigns. They presented to city council, professional audiences, and people with lived experience of poverty, decision makers, businesses, and many others. They organized a municipal election awareness campaign and event, and wrote reports and advocacy materials.

What Did Students Learn?

Students reported learning a range of skills, values and knowledge throughout their externship including: team work, communication skills, networking, building relationships with government, learning “how the micro leads to the macro”, and project management. One student discussed “[d]evelop[ing] of all the soft skills... things like organization and time management...We learned to be independent”.

The most detailed responses about content knowledge were in the general areas of community development, policy and advocacy. Students reported learning about formal and informal forms of advocacy. For example, students talked about learning to be creative and flexible, and how to tenaciously pursue a set of strategies, and how to plan to fail. They discussed learning about “how things work”. Students also reported learning how municipal politics functions and how community organizations are linked to policy making. One student reported that “[i]t’s not just legal analysis, it’s not just the law framework, it’s also how different organizations work, theories how more informal organizing an structures work and that’s not just law, and so building that sort of, or integrating that sort of interdisciplinary ... training and having students realize from day one this isn’t about you being a law student. It’s about you being a cog in this functioning machine that makes policy happen and propels it.” This same student spoke about connecting ideas from her previous legal training to the externship:

... this concept of everything being connected and this idea of gate keeping and how the law is a gate keeper for a lot of policy change and how the law is policy itself. It's kind of as though there were a bunch of dots that existed and what I learned was how the dots all connect. Even my understanding of legal analysis and the analysis of the laws itself as well, that sort of policy bit has more room for it and kind of a study that's more sociological of the law and the way it functions and how it changes and who the actors are... that wasn't sort of a connection I had made before, it was just kind of learn the classes, learn the law, write the exam but now it becomes more about how the system of power functions.

Students also demonstrated self-directed learning skills: "...[b]eing able to understand where my knowledge shortfalls are and to reach out or to have a better sense of how to reach out to the right people to be able to better understand the issues".

P2P staff was also asked what they thought students learned throughout the placement. Staff noted they thought students learned the following competencies throughout their placement: collaboration, community engagement, oral and written communication, formal and informal research, event planning, community development theories and principles, how to work in an interdisciplinary environment and understanding multi-sector environments, and working as part of a team.

Much like the student responses, staff members reported the most significant learning in the areas of policy and community development. One staff member also noted that students engaged with "notions of social justice and... trying to define collectively what that means in the context of anti-poverty work... looking at taking anti-oppressive approaches to some of the work we are doing around poverty... empowerment and inclusiveness and dignity of the person and distribution of resources in an equitable way". The same staff noted:

"I saw a lot of growth in all of the students as far as new knowledge, new learning... I guess content knowledge certainly of poverty and even conceptualizing poverty law differently or thinking about again coming back to, you know, a less traditional role of a lawyer being engaged in the issue of poverty where it's less of a direct client engagement in that sort of more clinical model and more engaging with community as client, which is a very different experience. So I think there's a lot of that community development knowledge that I saw and a lot of confidence too through that... through those new experiences or in some cases it was a matter I think of, for the students connecting some of their past experiences which might have been relevant to their current role as law students."

Professional Identity and Professional Development

As evidenced in the previous quote, P2P staff and students discussed how the externship placement broadened students' views of the role of law and lawyers. One staff stated that “the students I think really seemed to be fulfilled by that experience of working with the community at a certain level that they might not have thought of or have experience in sort of strictly legal role or even their role as a law student previously”. Students’ career goals and connections with the law school were also affected by the experience:

“Having the summer experience has influenced me to continue my studies where I wouldn’t have otherwise... I’m thinking about doing a Masters... because I was able to kind of be shown the way through a chain of events... to the academic and research side of things. That would be a product of the supervised research opportunity that we had at the end of the placement... it made the law school more accessible as far as the faculty”.

Law Student Preparation and Skills

Part of the success of the placement could also be attributed to the characteristics of the particular students chosen for the placement. Students were asked about the characteristics that they brought to the placement that fostered success. They mentioned: their research abilities, ability to work autonomously, and an understanding of social justice. They also discussed their personal characteristics such as “sociability” and being “outgoing”.

Interestingly, students used many affective words to describe why they were successful. They mentioned caring about the experience, caring about the issues, and wanting to make a difference. One student said, “I cared so much about my experience and I sort of got into the idea of being a part of the community and getting to know what was going on in Windsor, I sort of had a desire to go to the different community events...”. Another student mentioned that she continued working with various community groups even after her placement had ended.

In order to better situate externships from a curricular perspective, students were asked to make connections between their previous experiences in law school and in other placements. Students reported similarities between their previous clinical and volunteer experiences. Most placements worked with a similar client group – those experiencing poverty and other socioeconomic challenges. P2P seemed somewhat different from their previous experiences because of its uniquely community-based and policy perspective. For example, students’ experiences in Toronto and Windsor clinics were focused more on individual advocacy within the legal system, whereas P2P focused more broadly and systemically. One student said, “[e]ven though I had worked at community legal aid and kind of familiarized myself with some of the issues at the clinic, it really was a focus on legal

issues and so... they didn't have a strong ... emphasis on systemic issues... it was more of a focus on 'how do we meet these legal issues'." Students also discussed the importance of building community trust in their P2P experience. "Building that rapport, building that trust relationship with other community groups, expressing your interest and showing your genuine interest in these community needs for Windsor is different than... I would say than what I had previously experience in Toronto".

Students also discussed what they had learned in law school and how it connected to their externship. One student reported that "my law student foundation gave me a really strong interest in the development of legislation... it is a really empowering feeling ... to look at the issues on the ground and being to think about 'well if this was to go... to become law, or if this was to be implemented through formal policy or legislation what would that process look like?'" All students mentioned the Access to Justice course as being important to their understanding of the issues at P2P: "[the] Access to Justice course kind of look[s] at ... the legal aspects of access to justice and barriers.... how much that sort of overlaps and interplays with the social aspects... teaching some of that foundational stuff in access to justice gives you some of that background knowledge". Another student reflected on her increased understanding of the role of formal and informal law. The student reported learning about "[h]ow different things connect to the law, which might not be so much because of what I learned in law school as it was just an awareness of the boundaries surrounding the law environment".

Part 4: P2P Organizational Perspective

Staff members were impressed with the quality, preparation and professionalism of the law students placed at P2P. One staff member mentioned the increased "level of responsibility" and "ownership that the student took on" in comparison with other students placed at P2P, and that "their level of dedication was higher, accountability was higher... with these students it never seemed to be sort of 9 to 5". One staff member noted "they were exceptional. They seemed.... better prepared for that environment than other faculties... they just handled the whole experience and ... brought a different level of professionalism...".

P2P staff was also impressed with students' oral and written communication abilities, including public speaking. Staff also noted students' compassion and openness to multiple perspectives, as well as their flexibility, ability to articulate their positions, their curiosity and positivity. Staff also noted that the students demonstrated resilience in the face of challenging issues.

Staff was concerned with law students' perceptions that what they were learning was not as explicitly "law focused" as they might have wished. One staff member thought students struggled with "what they were doing... as not being explicitly law or tied to their learning

or their legal education... especially when we talked about policy... trying to get beyond some of those conceptions of what policy is, what law is, what that practice is”.

Interdisciplinary Programming

This specific learning environment was interdisciplinary, with social work and law students as well as a media studies intern. Working in an interdisciplinary environment brought with it some challenges and significant benefit. One staff said:

“there’s always challenges with when you do ask students to work across disciplines because I think there are just different norms and expectations in different theoretical orientations and ... world views. [F]or law it tends to be more of objective or focused more on that rational approach, that detached approach where social work more explicitly brings values into it, more explicitly deals with interpersonal dynamics overtly and so I think sometimes... it can be hard... for students to fully understand where students from other disciplines might be coming from”.

Students were universally happy with the interdisciplinary nature of the program. One student stated that “[i]t exposes you to skills in areas that you wouldn't otherwise have access to exposure to... it's really important to have that experience and I think people should”. Another said an interdisciplinary environment “[o]pens your mind up to thinking of things from different perspectives you wouldn't otherwise think”.

Part 5: Curriculum and Pedagogy

There was no formal education plan, learning outcomes or syllabus for this placement, although the Director had previous experience with structured place-based learning through the School of Social Work, as well as familiarity with Windsor Law’s clinical program. P2P staff also had informal learning goals for students. Students and staff had several suggestions to improve the curriculum.

All staff and students agreed that some mix of training before and during the training would be ideal. Subjects included: basic concepts in policy formation and social change, and more about the nature of P2P, collaboratives, the community, and community partners. One student reported that “I think that having a better understanding of the policy art of it and how the different moving pieces and how a society works together would be helpful for making sure that students know where they are situated and how they as law students are situated in this project and that environment that they are in.”

Some students expressed interest in reading materials beforehand, while another student said they would not have understood the materials unless she was already immersed in the environment. Another student suggested “ongoing summer reading lists”.

Staff expressed interest in a structured set of learning outcomes. One staff member reported that “I did find that consistently challenging the fact that there was no template really to be working from... it wasn’t as clear which theoretical foundations or... what were our reference points really for directing this learning and experience”.

Staff and students were asked if it would be possible or preferable to have a generalized externship training program, or a training program aimed specifically at a particular placement site such as P2P. Generally, staff and students thought a mix of approaches was appropriate, with some broad topics such as community development, policy and poverty suggested by both staff and students. One staff member thought that there could be a general umbrella of social justice externships in which students were introduced to concepts such as anti-oppressive practices, strengths-based approaches, community lawyering and empowerment. This staff expressed concerns about students entering community-based placements without explicitly training on the ethics of working with community. Staff also mentioned the importance of increased, explicit opportunities for critical reflection. Students thought a specific training on the work of P2P, possible projects and community partners would have been beneficial before beginning the placement.

One student mentioned the possibility of having a course aligned with the placement:

“I think it’s really great ... that they [clinic students] have to do this class component to their experience of the clinic. I think that externship students would benefit from that as well... it would be maybe a week or so and have that be sort of more a mini course... maybe getting students to write out what their expectations are for the summer would be great... to see how they’ve grown at the end of it and to also center where they’re having this experience from”.

One staff recommended better exit interviews both to establish student learning but also to more effectively transition projects. Both students and staff expressed interest in having specific types of projects that could accomplish some goal, however minor, within the prescribed time period. Many community development issues are too large to see significant impact in four months.

Part 6: Elements of a Successful Program

Students were overwhelmingly positive about their experience. They also had feedback to improve the program. The section outlines elements that seemed to be key to a successful placement, along with suggestions for improvement.

a) Pre-Placement Assessments

Upon beginning their placement, students were interviewed and asked about their previous experiences, current interests and future goals. Staff attempted to assign them to tasks that aligned with their interests and skills. Some flexibility was required in matching current community issues and student interest. This matching program seemed to improve student interest and success.

b) Learning Design

Staff was intentional about giving students specific experiences that would support them in becoming policy experts and leaders. Staff ensured that all students were given leadership experience, as well as a broad array of community development experiences in the general area of policy. Students were also given a significant amount of autonomy. The placement relied largely on a guided but largely self-directed form of learning in which students took responsibility over a specific project. This approach seemed to work to get the most from students in terms of learning and performance.

c) Meaningful Work

Students were given a choice of meaningful projects. As one student said, “[w]e weren’t just given busy work. There were actually things that needed volunteers to actually propel [projects forward]... the autonomy that I had in making my project go in certain directions and how the ideas that I would come up with from my own brain, being able to see that kind of materialize was kind of really exciting and not something I had experienced often or ever before.”

d) Supervision

Another key to the experience was having high quality supervision. Key characteristics report by students include: flexibility, availability (the term “open door policy” came up several times), supportive, approachable, and excited about their work. One student said, “[w]e were really lucky having Adam and Laura... having someone who is approachable... someone obviously excited about the work that you are doing, I think that's really important. Just in terms of the general sort of atmosphere and culture in the place, I think that really has an effect on performance and outcome.” The primary supervisor at P2P had a professional background in both law and social work which was helpful in understanding the benefits and limits of both approaches.

e) Work Environment

The environment was also supportive and relied on teamwork. One student said, “We were each given a portfolio... which worked really well because we were each able to be the

authority and leader on that different project but then also reach out to other students for help... we all worked together as a team and that was done really well because it felt like we were part of the organization as opposed to law students who were sort of shipped in, so that was really good”.

f) Length of Placement

As with any placement or educational experience, P2P staff and students weighed the length of time students spent in the placement against the cost of training them. A four month training period seemed ideal for both staff and students. One staff reported that “I would have kept them forever but it was a decent amount of time that we were actually able to accomplish things”.

g) Filling the Gaps

Although not the intended purpose, the placement filled a gap in one student's learning that she was unable to fill through the available curricular offerings. This student reported having “a fantastic learning opportunity because I developed a really strong interest in municipal and land use planning law... I was concerned how I was going to build experience in this area and so this externship was fantastic because food security issues really do lend themselves to municipal and land use planning”. The placement also provided education and experience in systemic and policy advocacy that is difficult to achieve outside an intensive clinical experience.

h) Should Students Receive Payment?

In the United States, the ABA bars payment for externship programs (although there is current discussion as to whether amend this policy). As discussed earlier, payment was an unexpected bonus for this project, but would be a matter for discussion in future years. Staff and students varied widely on how and whether payment affected performance in this project. Staff reflected on how having paid students affected how they treated them. One staff said “I think we gave them more power than we typically would and did treat them more as staff and colleagues versus interns... we gave them higher profile projects”.

Students did not think that payment influenced their behaviour, but lack of payment would be otherwise limit the number of students able to complete the placements. One student said: "I don't think it really influenced performance. For myself, and I imagine for a lot of other students, without remuneration we probably wouldn't be able to do it. Just... financial realities. The alternative would be a volunteer basis thing, you know a couple hours a week can't really accomplish too much in that time”.

Students and staff both thought that receiving credit was a viable option in lieu of payment. When asked if there were other options instead of payment, one staff suggested “if you

can't get paid, if you could at least leave with an awesome portfolio piece to say 'I executed this project' to get something published or a research project". Another student stated that "[i]f we were able to get credit for it and there was research involved it would encourage students...".

Part 7: Potential Contribution of Windsor Law

Externships are a partnership between the community, the law school, and the firm or agency with which students are placed. One staff suggested that if the law school did want to expand the program it would be important to consider an externship director to facilitate placements, or that a placement program could seek funding to pay positions, potentially as a type of bursary program. The law school might also consider these types of placements a way of increasing experiential learning opportunities and bringing further coherence to the access to justice mission of Windsor Law. One research subject indicated that an explicitly social justice-focused externship program could provide another opportunity for the law school to begin "talking about it explicitly as an access to justice type of initiative and providing students with really meaningful skills and knowledge and training... that is directed toward addressing major social and economic challenges in the community".

Appendix 1(b)

PROJECT: Evaluating Non-Traditional Externships

DOCUMENT: Student Interview Questions

Introduction

Thank you very much for taking the time to complete this interview. This interview was designed to gather information about the pilot externship project that took place at Pathway to Potential over the summer of 2014. This information will be used to identify the strengths and limitations of the externship pilot and develop recommendations for a formal Externship program.

The externship pilot was a small-scale project, increasing the possibility that the primary investigator could deduce your identity. For more information on how your information will be handled in order to reduce loss of anonymity, please refer to the confidentiality agreement you signed prior to participating in this interview. Your confidentiality is important to us, which is why all identifying characteristics will be removed from the final report, and no data will be directly attributable to you. We seek to develop a formal externship program that will enrich the learning experience of undergraduate law students, both at the University of Windsor and abroad. Any publication produced as a result of this may include quotations or observations that you recognize as your own; however, such quotes will not be directly attributed to you.

If you have any questions or concerns about this survey, please contact Professor Gemma Smyth at gemma.smyth@uwindsor.ca. If you are uncomfortable contacting the primary investigator, please feel free to contact Associate Dean Reem Bahdi at bahdi@uwindsor.ca

Instructions

The interview will take about 60 minutes to complete. Should you require a break at any time, please let me know. This interview has been designed to adopt a semi-structured format. Therefore, depending on your responses to questions, I may request that you clarify or elaborate upon your answers. With this in mind, the interview will consist of approximately 30 questions. Should you not wish to answer a specific question, please let me know. Your participation in this interview is completely voluntary and you are under no obligation to answer any or all questions.

Assessment of Previous Experience

- 1) What year of law are you in currently?

- 2) Please describe your previous experience in both clinical (law) and community settings, if any.
 - a. How has your externship experience differed from other placement experiences? How is it similar?
 - b. What experiences or competencies did you bring to this placement that you would consider mandatory for other students?

- 3) How has your education and training as a law student helped to prepare you for this externship experience?

In Regards to your Perception of Student Performance

- 4) What projects did you work on for Pathway to Potential?
- a. What skills do you feel you have developed through these roles?
 - b. What other experiences would you have liked to have through your externship position? How would these experiences have enriched your learning?

1=Quite unsuccessful, 2 = unsuccessful, 3= neither, 4= successful, 5= Quite successful

- 5) Overall , on a scale from 1 to 5, with 1 being Quite Unsuccessful and 5 being Quite Successful, how successful or unsuccessful do you feel this experience has been for the following:
- a. Learning new knowledge?
 - b. Gaining deeper understanding of policy more specifically?
 - c. Gaining valuable and relevant new experiences?
 - d. Contributing to Pathway to Potential's goals?
 - e. Contributing to the Windsor-Essex community at-large?
 - f. Facilitating connections for employment?
 - g. Facilitating personal development?
 - h. Facilitating professional development?
- 6) This placement was intended to focus on policy. Can you expand on what you learned about policy specifically? Community development?
- 7) Please comment on working in an interdisciplinary setting.

PROMPTS:

-Communication with professionals and/or students from other disciplines
-Acquisition and/or application of knowledge/perspectives from other disciplines
-Ability to apply and adapt legal expertise to the multi-faceted challenges that arise in community practice settings

- 9) Do you feel that you would have benefited from additional/special training prior to beginning the externship pilot, and if so what kind (e.g., training seminar, full-day workshop, week-long prep course, etc.)?
- a. Should training be generalized, specific to externship setting/organization, or a combination of both?

In Regards to the Externship Design

- 10) In your opinion, what were the goals to be accomplished through the externship pilot, with regard to both student learning and contributions to the Windsor-Essex community at-large?
- 11) What elements of the current externship pilot design do you feel were successful (e.g., student projects, student recruitment, paid vs. unpaid, etc.)?
- a. Do you feel that receiving remuneration for these externship pilots has influenced your performance/perception of your placement? If yes, how so?
 - b. Is there anything that immediately comes to mind about the pilot that should be adjusted to foster greater success for students and for Pathway to Potential?
 - i. How could the Faculty of Law contribute to the pilot's success?
 - c. What are the characteristics of a placement that would help you succeed?
 - d. What are the characteristics of a supervisor that would help you succeed?
- 12) If the program is for credit rather than pay in future years, what method of evaluation would be meaningful for you?
- 13) Is there anything else you would like to add?

Appendix 1(c)

PROJECT: Evaluating Non-Traditional Externships

DOCUMENT TITLE: Supervisor Interview

Introduction

Thank you very much for taking the time to complete this interview. This interview was designed to gather information about the pilot externship project that took place at Pathway to Potential over the summer of 2014. This information will be used to identify the strengths and limitations of the externship pilot and develop recommendations for a formal Externship program.

The externship pilot was a small-scale project. You were the only supervisor in the pilot; thus, your identity is immediately recognizable and we can offer neither anonymity nor confidentiality.

Any publication produced as a result of this may include quotations or observations that you recognize as your own; however, such quotes will not be directly attributed to you.

If you have any questions or concerns about this survey, you may contact Professor Gemma Smyth at gemma.smyth@uwindsor.ca. Due to your relationship with Professor Smyth, you may wish to contact Associate Dean Reem Bahdi at bahdi@uwindsor.ca.

Instructions

The interview will take about 60 minutes to complete. Should you require a break at any time, please alert the researcher so that you may be accommodated. This interview has been designed to adopt a semi-structured format. Therefore, depending on your responses to questions, the interviewer may request that you clarify or elaborate upon your answers. Also, please inform your interviewer should you not wish to answer a specific question – your participation in this interview is completely voluntary and you are under no obligation to answer all questions.

Supervisory Experience

- 1) Please describe your previous experience supervising and mentoring students.
 - a. How has this experience prepared you as a supervisor for the pilot externship program for law students?
 - b. How has this experience differed from previous supervisory roles? How is it similar?
 - c. As a supervisor, how challenging was this supervisory experience relative to those where students are performing roles that more traditionally align with their expectations of their profession (e.g., macro social work)?
- 2) How has your education and training as a lawyer helped to shape the externship experience for your students?

- 3) How has your education and training as a social worker helped to shape the externship experience for your students?
- 4) How necessary do you feel it is that an on-site, non-traditional externship supervisor possess this knowledge and experience (i.e., would an "off-site" supervisor suffice for this placement experience)?

Perception of Student Performance

- 5) What kinds of placement/experience opportunities did you offer students in this placement?
 - a. What specific skills, knowledge and values have these duties helped students develop?
 - b. How have students developed in their professional identity through their assigned roles? (If prompted, professional identity means their understanding of their roles as future lawyers, regardless if in a "traditional" or "non-traditional" legal career)
- 6) Overall (e.g., on a scale from 1 to 10) how successful do you feel this experience has been for:
 - a. Student learning of new knowledge?
 - b. Contributing to the Windsor-Essex community?
 - c. Contributing to Pathway to Potential's goals?
- 7) How well have students adapted to an interdisciplinary setting? Please comment on the following:
 - a. Communication with professionals and/or students from other disciplines
 - b. Acquisition and/or application of knowledge/perspectives from other disciplines
 - c. Ability to apply and adapt legal expertise to the multi-faceted challenges that arise in community practice settings
- 8) What student qualities – both personal and professional – appear to have contributed to success in the externship pilot?
 - a. In what ways have these qualities contributed to success?
- 9) What limitations have students generally demonstrated and/or encountered during their externships?
 - a. Would students have benefited from additional/special training prior to beginning the externship pilot, and if so what kind (e.g., training seminar, full-day workshop, week-long prep course, etc.)?
 - b. Should training be generalized, specific to externship setting/organization, or a combination of both?

Externship Design

- 10) In your opinion, what were the goals to be accomplished through the externship pilot, with regard to both student learning and contributions to the Windsor-Essex community at-large?

- 11) What elements of the current externship pilot design do you feel were successful (e.g., student projects, student recruitment, etc.)?
- 12) Which elements of the current externship pilot design could have been improved?
- 13) Do you feel that receiving remuneration for these externship pilots has influenced student performance/perception of their placements? If yes, how so?
- 14) With the externship program being continued as unpaid student placements in the upcoming semester, is there anything that immediately comes to mind about the pilot that should be adjusted to foster greater success for students and for Pathway to Potential?
 - a. How could the Faculty of Law contribute to the pilot's success?
- 15) What skills do you feel students have developed in this non-traditional externship that they might not otherwise develop in a traditional for profit law firm setting?
- 16) What skills do you feel students have developed in this non-traditional externship setting that they might not otherwise develop, or develop to the extent that they have, in traditional clinical legal education settings?
- 17) Is there any element of the program that you feel could be monitored on an on-going basis (i.e., bi-weekly or monthly) that could track the program's success? (For example: student attitudes, self-perceived development of student skills, supervisor perception of student skill development, communication with students/professionals from other disciplines, etc.?)
- 18) Would you accept law students in future?
- 19) Do you have any other comments to add?

APPENDIX 2.1

Student Survey Data Analysis Report

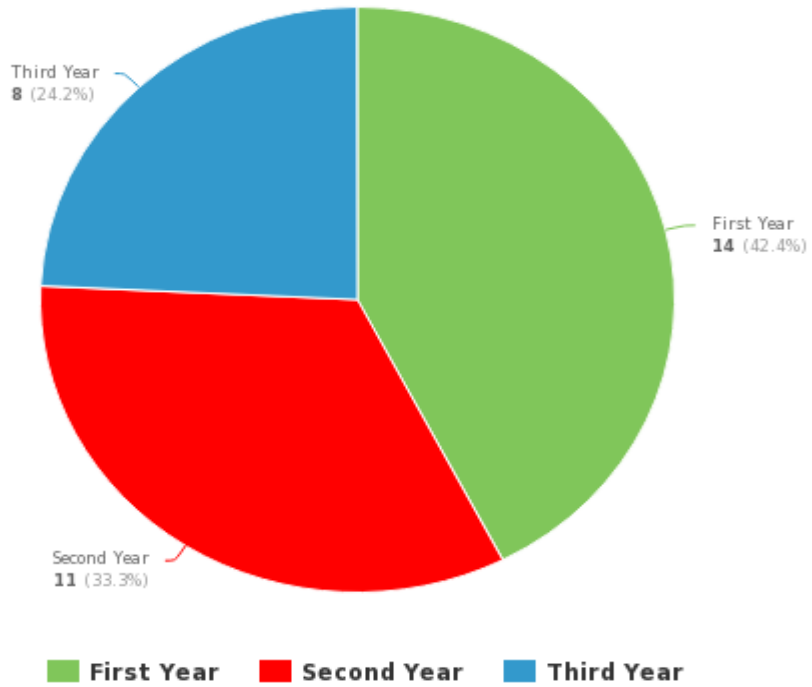
Survey Statistics

Survey Details The survey was administered through the online survey software FluidSurveys. The survey consisted of 27 questions across 9 webpages (Approximately 3 questions per page). The average participant completion time was 9 minutes.

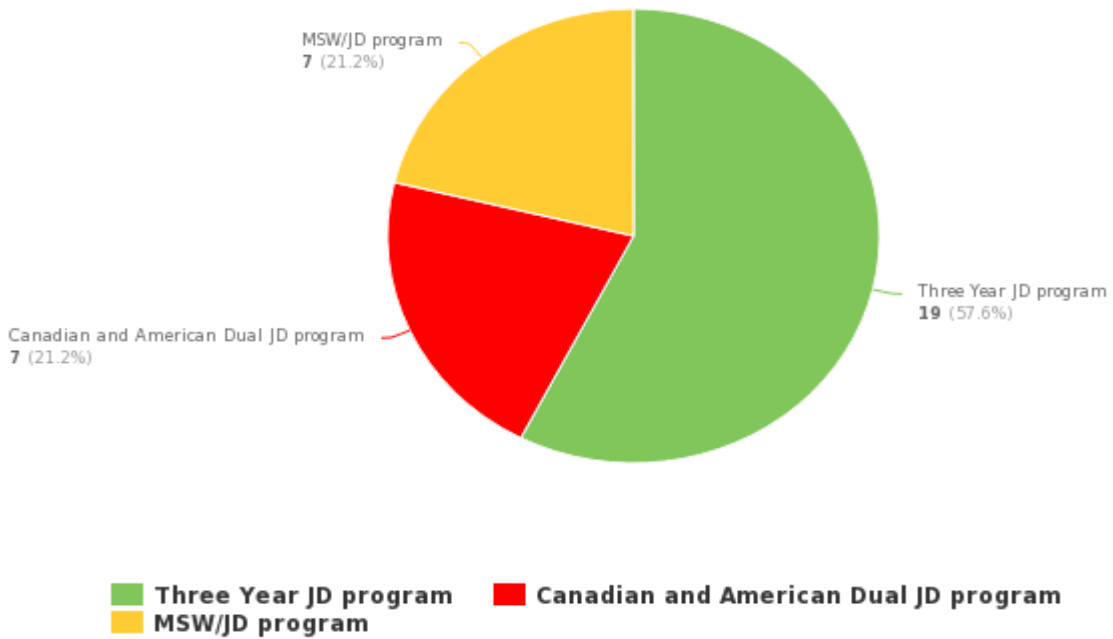
Response Rate: Of 450 prospective participants invited to the study, 51 responded to the survey (RR=11.3%).

Completion Rate: Of the 51 respondents 23 fully completed the survey (CR=45%). In line with the University of Windsor's REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the data analysis.

1) What year of law school are you currently in?



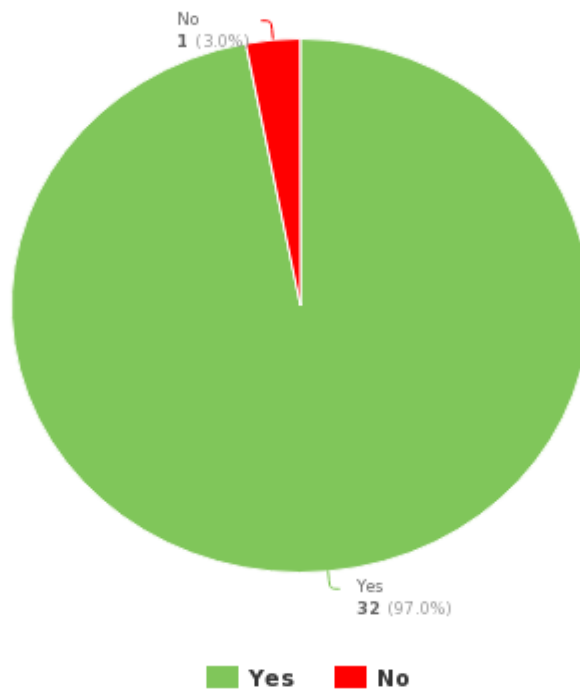
2) Which academic program are you currently enrolled in?



3) What is your current student status?



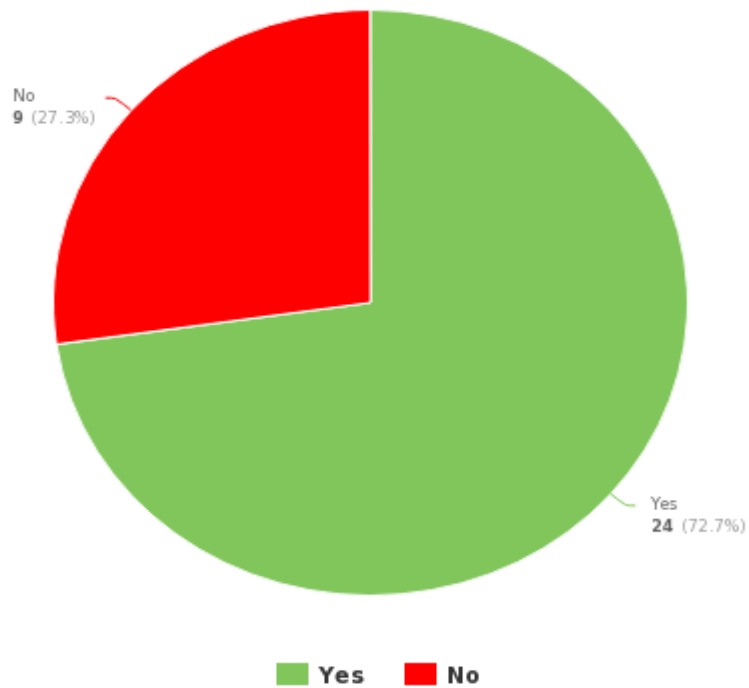
4) Do you plan to practice law?



5) Do you have an articling placement?



6) Do you hope to work in a social justice setting in law or outside of law?



7) Which of the following experiential learning opportunities have you participated in while enrolled at Windsor Law?

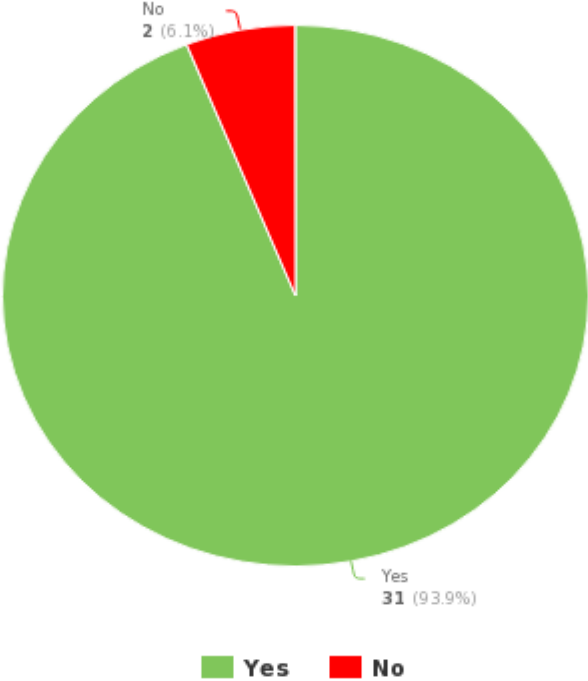
Response	Chart	Percentage	Count
Community Legal Aid		60.6%	20
Legal Assistance Windsor		15.2%	5
Pro Bono Students Canada		30.3%	10
Self-Represented Litigants Project		0.0%	0
Social Justice Fellowship Program		3.0%	1
Law, Technology and Entrepreneurship Clinic		3.0%	1
Transnational Law and Justice network		12.1%	4
Northwest Territories Clerkship Program		3.0%	1
Student Clerkships		0.0%	0
Provincial Court Windsor--Criminal Law		0.0%	0
Provincial Court Windsor--Family Law		3.0%	1
Provincial Court Newmarket		0.0%	0
Mooting		54.5%	18
None of the above		6.1%	2
		Total Responses	33

7a) If you answered none of the above, please indicate the reason.

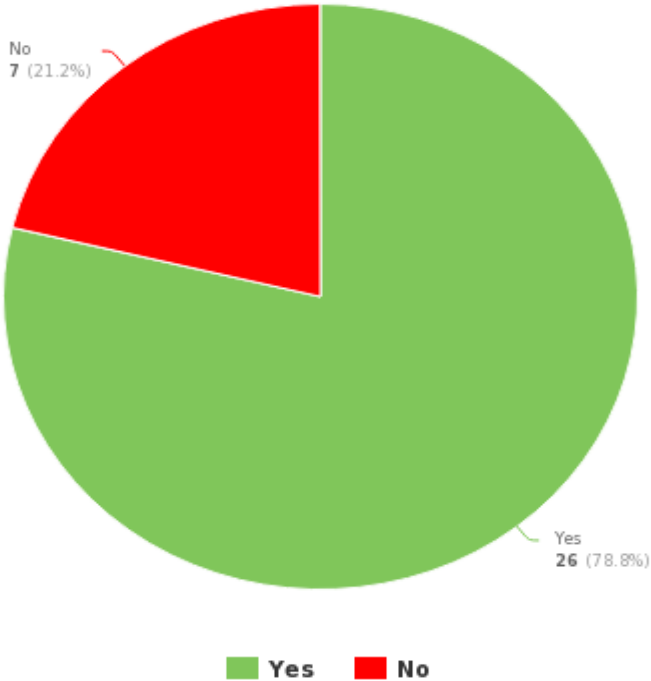
The 3 responses to this question can be found in Appendix 2(a).

Response	Chart	Percentages	Count
Actively involved with other organizations		40%	2
Applied but not selected		40%	2
Unable due to work hours during semester		20%	1

8) In your opinion, is there a need for additional placement opportunities for law students?



9) In your opinion, is there a need for an additional placement program at Windsor Law that focuses specifically on social justice?



10) Please indicate which tasks you would most like to undertake through an externship.

Response	Chart	Percentage	Count
Litigation		65.4%	17
Research		65.4%	17
Policy Analysis		69.2%	18
Law Reform		69.2%	18
Community Development		69.2%	18
Direct Client Service		53.8%	14
Systemic Advocacy		76.9%	20
Other, please specify...		3.8%	1
		Total Responses	26

10) Please indicate which tasks you would most like to undertake through an externship. (Other, please specify...)

#	Response
1.	[Public education on common areas of law] Unsure of the meaning of "community development", but developing materials to assist public understanding of commonly encountered areas of law

11) Please select your preferred location in which to complete an externship.

Response	Chart	Percentage	Count
Windsor-Essex		76.9%	20
Chatham-Kent		11.5%	3
London-Middlesex		11.5%	3
Sarnia-Lambton		7.7%	2
Greater Toronto Area		61.5%	16
Other, please specify...		23.1%	6
		Total Responses	26

11) Please select your preferred location in which to complete an externship (Other, please specify...)

#	Response
1.	Alberta
2.	Detroit
3.	Hamilton
4.	International (if paid/grants available)
5.	Ottawa area
6.	More Yellowknife opportunities

Under the "Other, please specify option" respondents suggested 6 unique locations including: Detroit, Hamilton, Ottawa, Yellowknife, Alberta and International.

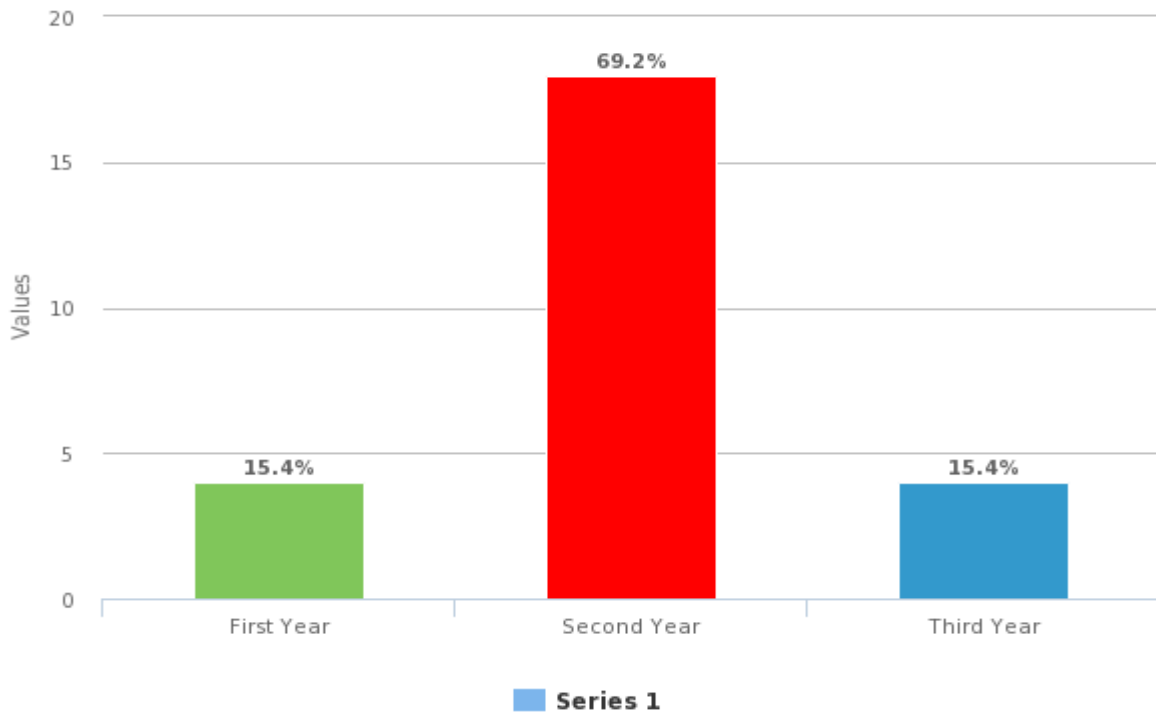
12) Please explain the reason behind your preferred externship location(s).

The 21 response(s) to this question can be found in Appendix 2(a).

Response	Chart	Percentages	Count
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Convenience	20%	9
Employability	2%	1
Intended city of practice	9%	4
Limited opportunities in Windsor-Essex	2%	1
More feasible	2%	1
More opportunities	11%	5
Proximity to home residence (out of town)	13%	6
Proximity to residence (Windsor)	18%	8
Reduced cost	2%	1
Relevant networking opportunities	6%	3
Unique experience (Windsor)	4%	2
Unique experience (out of town)	4%	2
Lack of transportation	2%	1

13) Please select your preferred year of study in which to complete an externship.

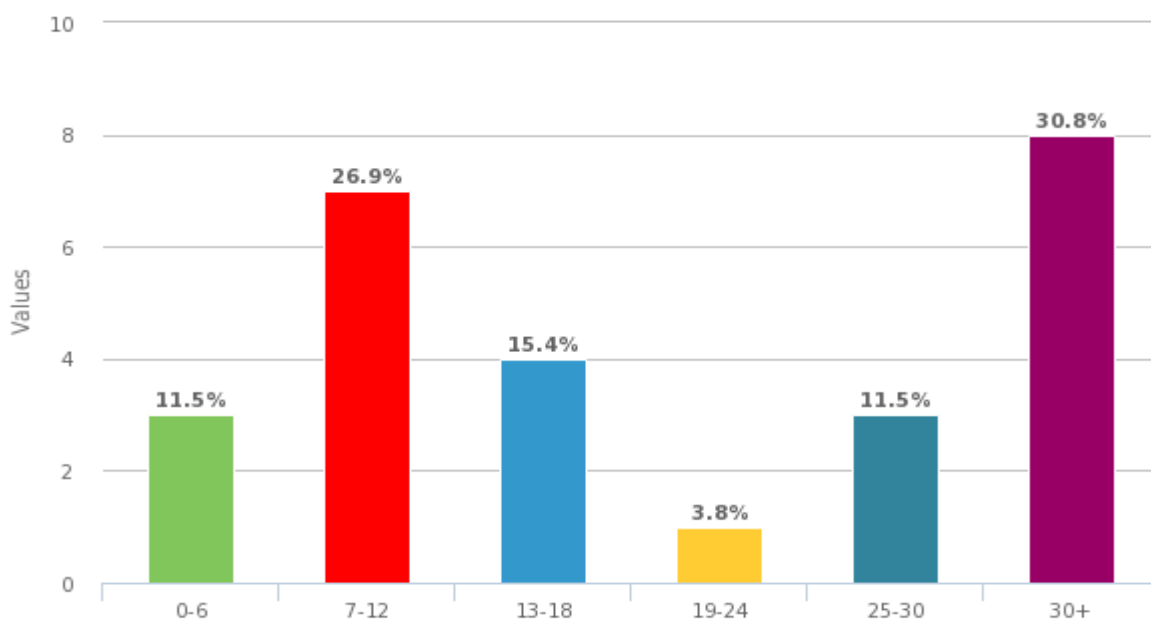


14) Please rank the following externship structures from 1 to 5.

	(1) Most Ideal	(2)	(3)	(4)	(5) Least Ideal	Total Responses
Part-time over one term	6 (23.1%)	8 (30.8%)	7 (26.9%)	4 (15.4%)	1 (3.8%)	26
Part-time over	3 (11.5%)	2 (7.7%)	14	4 (15.4%)	3 (11.5%)	26

two terms	(53.8%)					
Part-time over the summer	0 (0.0%)	2 (7.7%)	4 (15.4%)	10 (38.5%)	10 (38.5%)	26
Full-time over one term	5 (20.0%)	8 (32.0%)	1 (4.0%)	5 (20.0%)	6 (24.0%)	25
Full-time over the summer	11 (42.3%)	6 (23.1%)	0 (0.0%)	3 (11.5%)	6 (23.1%)	26

15) Please select your preferred number of weekly externship hours.

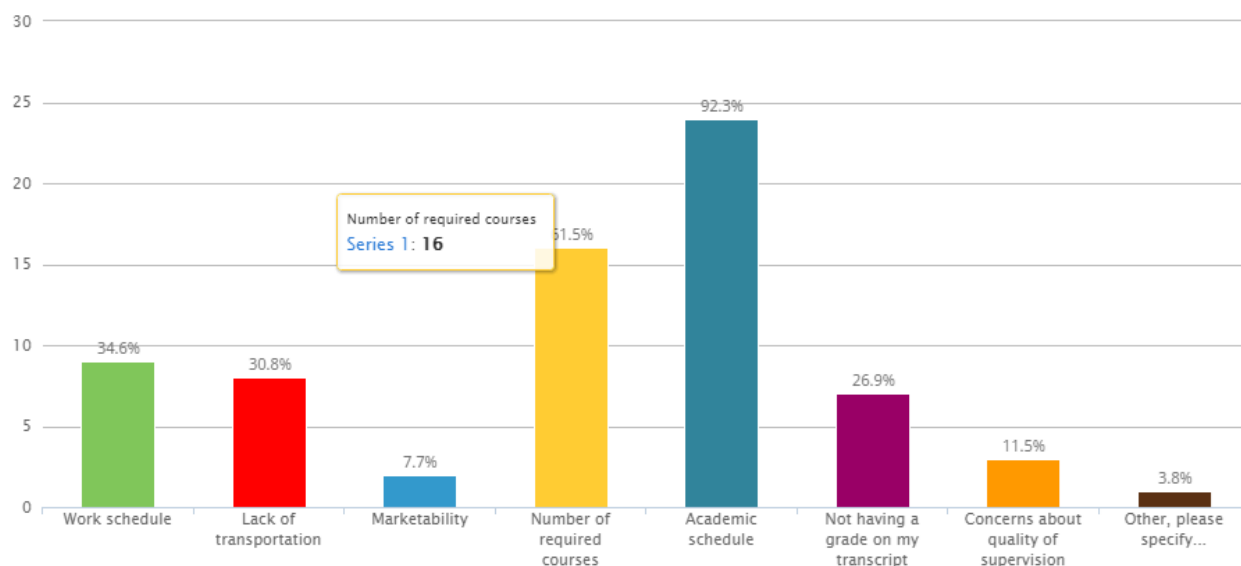


16) In which area(s) of law would you like to gain externship experience?

Response	Chart	Percentage	Count
Immigration		61.5%	16
Refugee		57.7%	15
Social Benefits		42.3%	11
Employment		23.1%	6
Family		50.0%	13
Labour		23.1%	6
Criminal		57.7%	15
Environment		30.8%	8
Corporate Commercial		15.4%	4
Health		46.2%	12
Municipal		34.6%	9
Housing		34.6%	9
International Human Rights		76.9%	20

National Security		46.2%	12
Charitable Organizations		46.2%	12
First Nations/ Indigenous		50.0%	13
Other, please specify...		0.0%	0
Total Responses			26

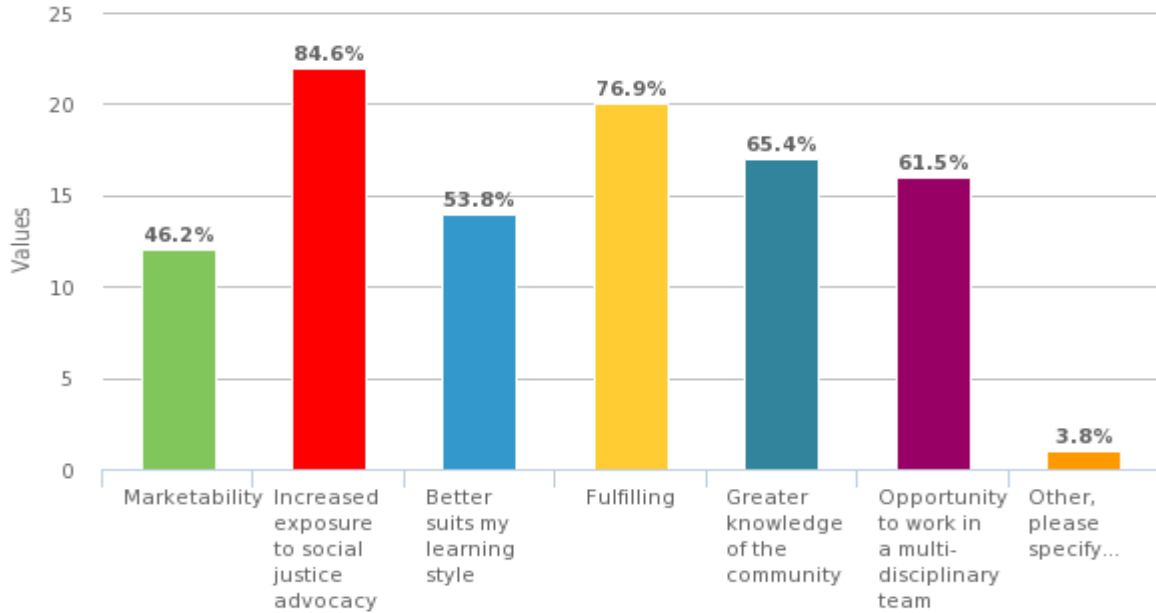
17) What factor(s) would prevent you from participating in an externship placement?



17) What factor(s) would prevent you from participating in an externship placement? (Other, please specify...)

#	Response
1.	Financial concerns

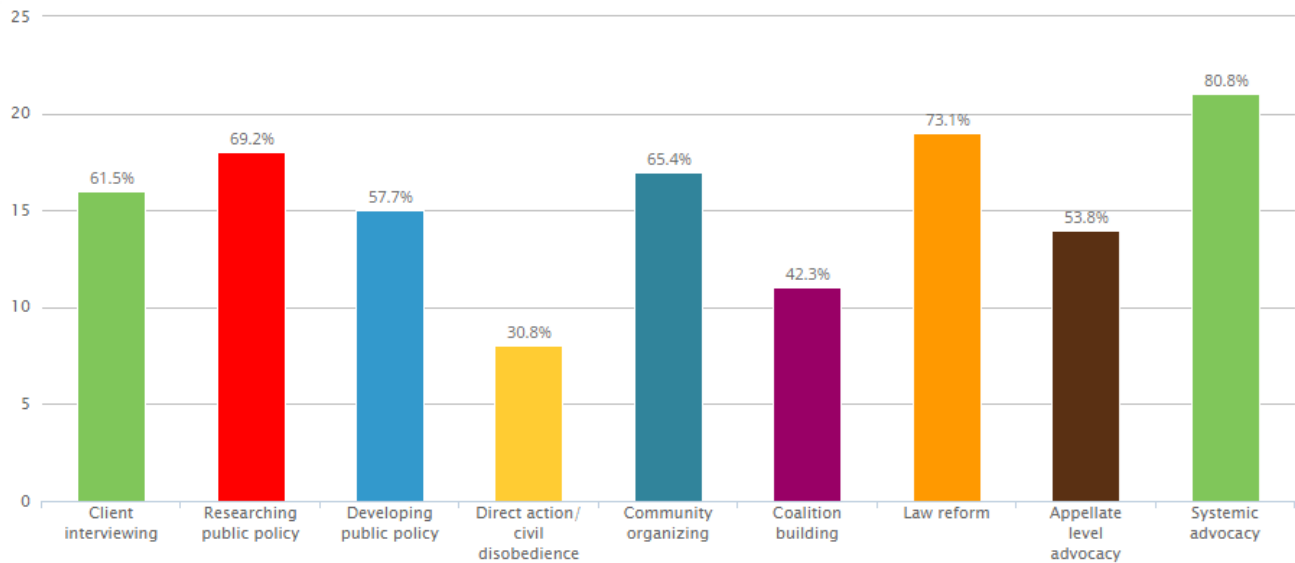
18) What factor(s) do you see as the greatest benefit of doing an externship placement?



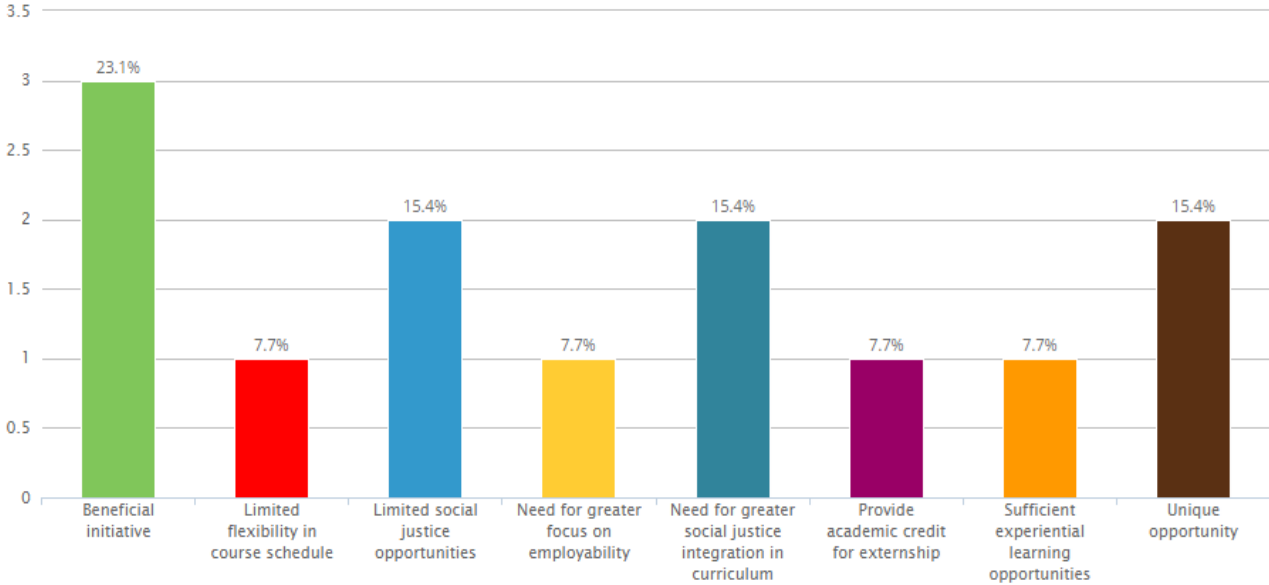
18) What factor(s) do you see as the greatest benefit of doing an externship placement? (Other, please specify...)

#	Response
1.	[Unique experience] First hand experience that cannot be gained in the classroom

19) What skills do you wish to gain during an externship placement?



20) Additional Comments?



Appendix 2.1(a)

7a) If you answered none of the above, please indicate the reason.

#	Response
1.	[Actively involved with other organizations] I am involved in many other organizations through the law school.
2.	[Actively involved with other organizations] [Applied but not selected] [Unable due to work hours during semester] I had to work during to school to support myself. I am also involved in the Windsor Review of Legal and Social Issues, the Charter Project, and am a Fellow at the University of Detroit Mercy. I applied, but was not accepted, into CLA, PBSC, and am only a 1L, and so could
3.	[Applied but not selected] I applied, but didn't get selected

12) Please explain the reason behind your preferred externship location(s).

#	Response
1.	[Convenience] Common area's where people would (during school, breaks in-between school, after graduation)
2.	[Convenience] I would like the opportunity to do a placement for credit either during the year or over the summer of 2L.
3.	[Convenience] Windsor-Essex area would allow students flexibility in being able to attend class while participating in externship opportunity.
4.	[Convenience] [More feasible] I assume that an externship would be occurring simultaneously with school course work; thus it would be impossible, as a Dual student, to work elsewhere due to the heavy workload, and additional mandatory courses that Dual JD students have. However, if externships would be occurring at another time, then it would be more feasible to work anywhere in Ontario.
5.	[Convenience] [More opportunities] [Proximity to home residence (out of town)] [Proximity to residence (Windsor)] [Unique experience (out of town)] It would be beneficial to have an externship close to school so that people could potentially engage in an externship in addition to taking classes. An externship in the GTA would be beneficial to the numerous students who are from the GTA and also, the GTA is a large city where numerous organization have their head offices - there are a great deal of opportunities there I believe. An international externship would offer students novel experiences and the ability to gain new skills and new world views.
6.	[Convenience] [More opportunities] [Proximity to residence (Windsor)] Close to school (Windsor-Essex) would be convenient for those who are at school.GTA

	would likely result in a wider variety of opportunities.
7.	[Convenience] [Proximity to residence (Windsor)] Do not have to move for the summer.
8.	[Convenience] [Proximity to residence (Windsor)] Near school/near home
9.	[Convenience] [Reduced cost] [Proximity to residence (Windsor)] My preference would be to complete an externship in Windsor and Detroit as they close enough for students to avoid moving. As I and many other Windsor Law students are based out of the GTA, this option would also avoid additional incurred costs. I wouldn't be opposed to externships outside of Windsor, Detroit, or the GTA if I were issued a travel stipend or housing costs in addition to the standard rate paid to Windsor Law Student employees.
10.	[Intended city of practice] It's the area where I hope to work after law school.
11.	[Intended city of practice] [Proximity to home residence (out of town)] [Relevant networking opportunities] I am from Toronto and intend to practice law in Toronto and the externship will allow me to develop my network there.
12.	[Intended city of practice] [Proximity to home residence (out of town)] [Relevant networking opportunities] Most of the students who study here live in Toronto and it would be beneficial to feel like we can contribute to the communities that we will be part of longitudinally. I would also like to see that change and benefit in my nearest proximity (Windsor) so that I can feel close to the work I do.
13.	[Intended city of practice] [Proximity to home residence (out of town)] [Relevant networking opportunities] proximity to home, and interest in working for government agencies that engage in community development in capital region
14.	[Limited opportunities in Windsor-Essex] I love the Windsor Essex region and I would like to stay in the area but there are limited opportunities to do so right now.
15.	[More opportunities] [Employability] I think there are more opportunities that could lead from an externship in bigger cities, employability of the externship would be a great plus.
16.	[More opportunities] [Unique experience (Windsor)] In Windsor-Essex because it would facilitate relationships in the community between the school and the social justice needs of the County. Forging long-term relationships there would lead to long-term efforts for change and a real chance at social justice-oriented law reform. In the GTA, there would be significant resources available - as well as easy access to experts - that could assist in educating those who participate in the externships.

17.	[More opportunities] [Unique experience (Windsor)] Windsor-Essex - because it is good to work in the community where we are studying.GTA - because I feel there are some opportunities available there they may not be available in smaller cities.
18.	[Proximity to home residence (out of town)] [Proximity to residence (Windsor)] I am from the GTA so I would prefer having a placement either back home or here in Windsor since this is where I am living now.
19.	[Proximity to home residence (out of town)] [Unique experience (out of town)] I am from the GTA so that would be convenient but I think we could also focus on placements in the North where there is huge untapped articling potential and great opportunities for cross cultural experiences.
20.	[Proximity to residence (Windsor)] Easiest to get to based on where I live and my parents live
21.	[lack of transportation] [Proximity to residence (Windsor)] I am from out of province and do not have a car so I am confined to the Windsor region

Appendix 2.2

Faculty Survey Data Analysis

Survey Statistics

Survey Details: The survey was administered through the online survey software FluidSurveys. The survey consisted of 18 questions across 6 webpages (3 questions per page). The average participant completion time was approximately 19 minutes.

Response Rate: Of 35 participants invited to the study 18 responded to the survey (RR= 51.4%)

Completion Rate: Of the 18 respondents 10 fully completed the survey (CR=56%). In line with the University of Windsor’s REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the survey.

1) Have you been involved in any of the following experiential learning initiatives in a supervisory capacity?

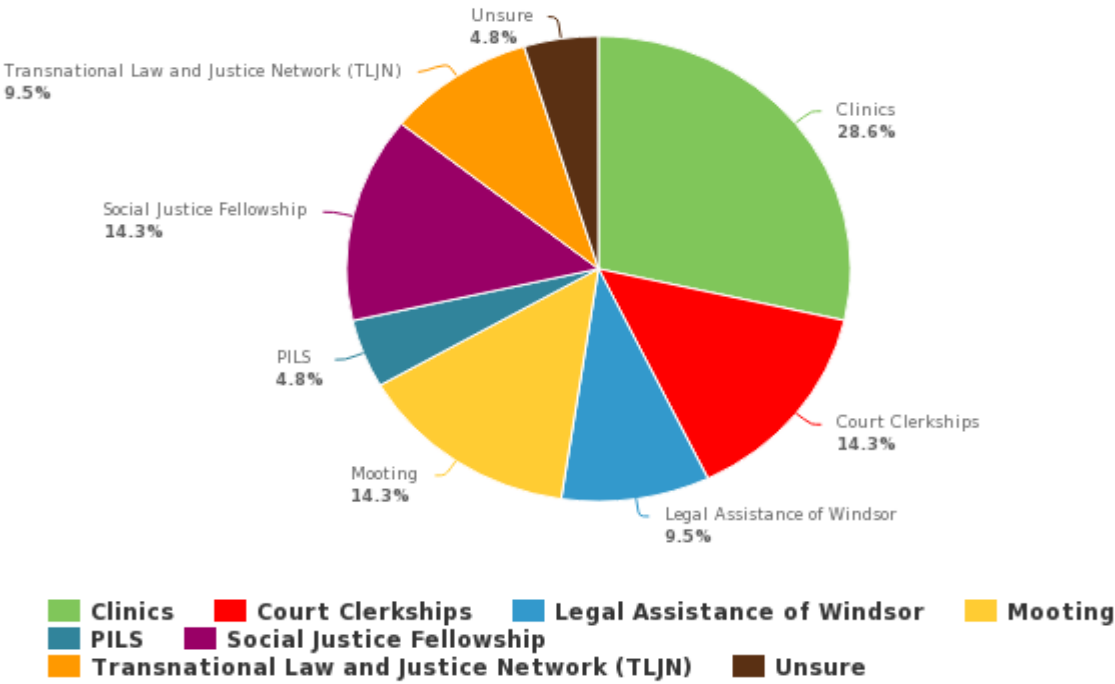
Response	Chart	Percentage	Count
Community Legal Aid		16.7%	2
Legal Assistance Windsor		16.7%	2
Pro Bono Students Canada		8.3%	1
Self-Represented Litigants Project		8.3%	1
Social Justice Fellowship Program		50.0%	6
Law, Technology, and Entrepreneurship Clinic		16.7%	2
Transnational Law and Justice Network		25.0%	3
Northwest Territories Clerkship Program		0.0%	0
Student Clerkships		8.3%	1
Provincial Court Windsor--Criminal Law		8.3%	1
Provincial Court Windsor--Family Law		8.3%	1
Provincial Court Newmarket		8.3%	1
Mooting		50.0%	6
"Projects for Justice" in Access to Justice Course		33.3%	4
Other, please specify...		25.0%	3
None of the Above		16.7%	2
Total Responses			12

1) Have you been involved in any of the following experiential learning initiatives in a supervisory capacity? (Other, please specify...)

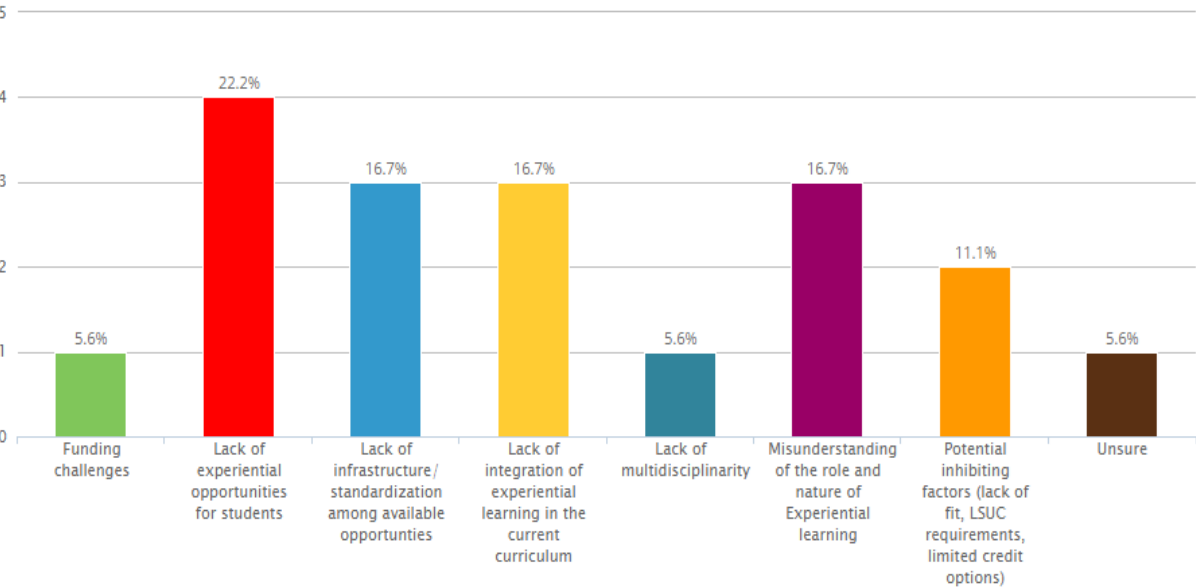
#	Response
1.	Supervised Research Projects, including co-supervision with Pathways to Potential for

students hired through SPF grant
2. Mediation Clinic (now defunct), PILS week, Lawyer as Conflict Resolver, ADR (everything I teach uses experiential methods)
3. Jurisprudence, legal theory, advanced jurisprudence, theories of justice

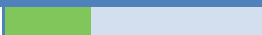







2) What experiential learning initiatives at Windsor Law do you feel are currently working well? Why?



3) What are the limitations to current experiential learning initiatives? Why?



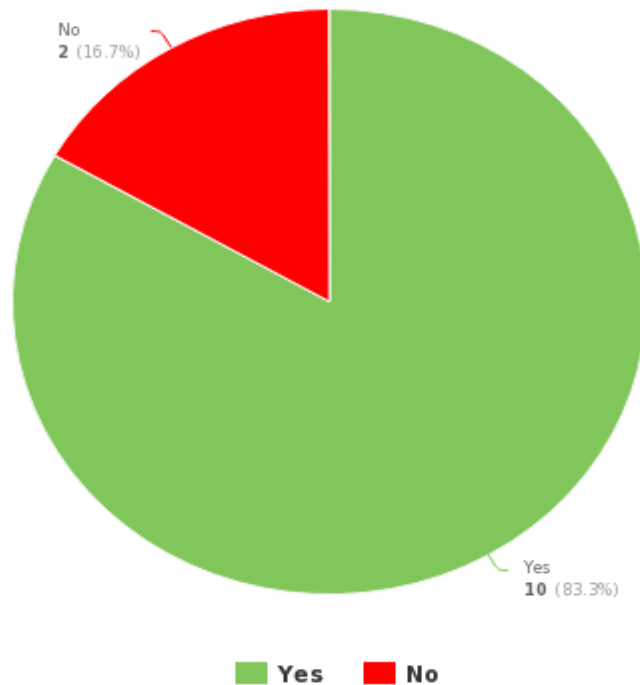
4) Please indicate the areas in which you would be interested in supervising students?

Response	Chart	Percentage	Count
Litigation		25.0%	3
Research		75.0%	9
Policy analysis		75.0%	9
Law reform		66.7%	8
Community development		41.7%	5
Direct client service		16.7%	2
Systemic advocacy		16.7%	2
Other, please specify...		8.3%	1
Total Responses			12

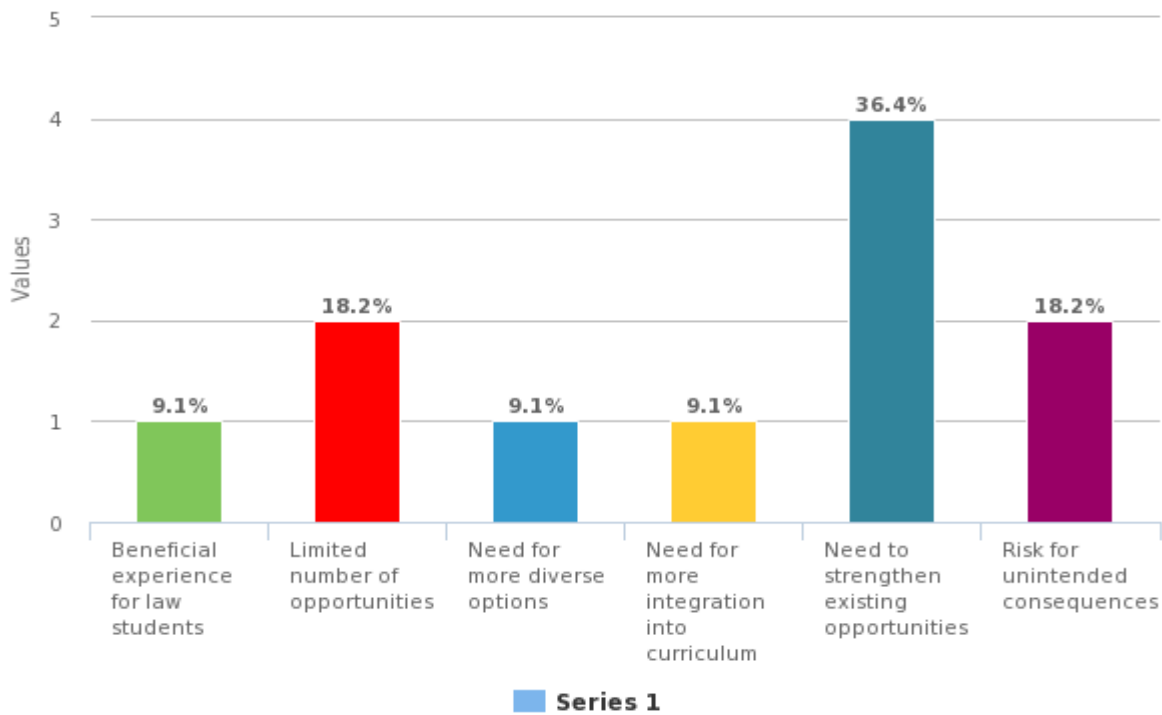
4) Please indicate the areas in which you would be interested in supervising students? (Other, please specify...)

#	Response
1.	questioning whether access to justice = access to legal institutions and examining how marginalized groups remain marginalized because the legal institutions share an exclusionary language.

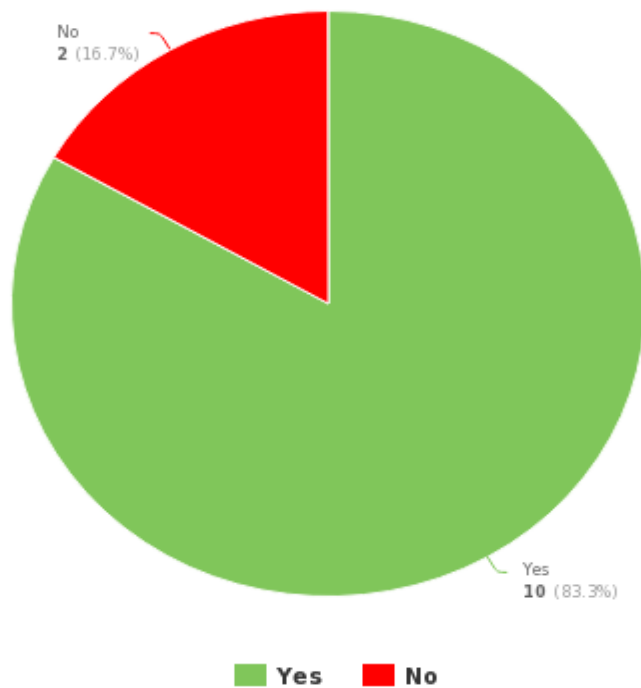
5) In your opinion, is there a need for additional for-credit experiential learning opportunities for law students?



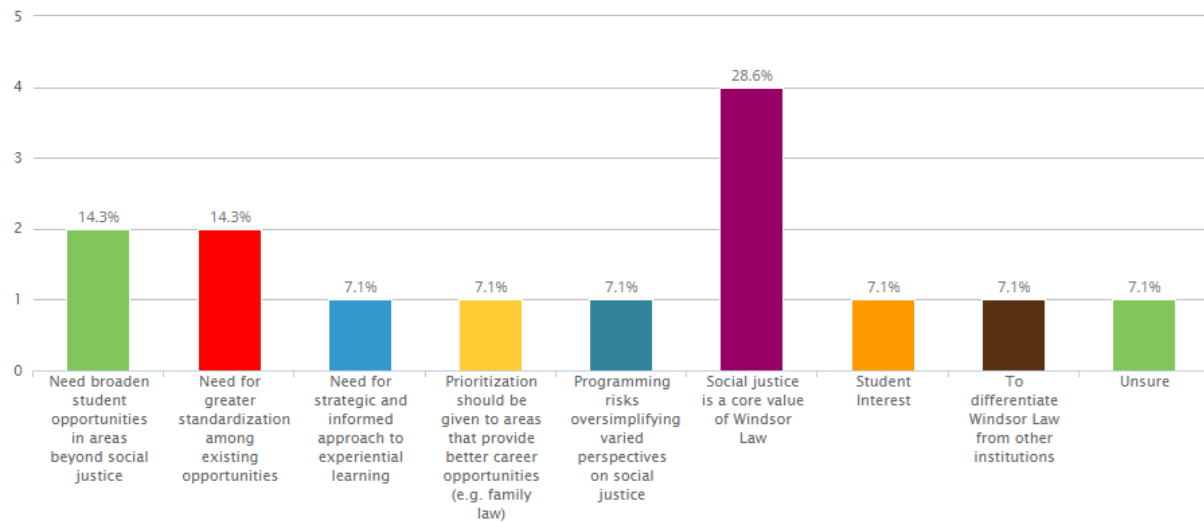
5a) Please explain.



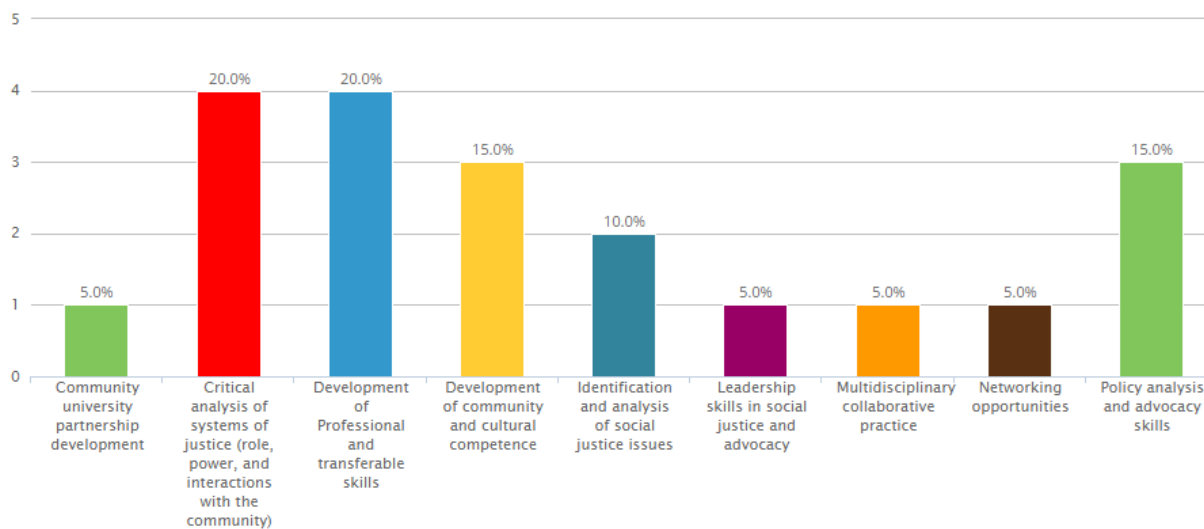
6) In your opinion is there a need for a for-credit experiential learning program at Windsor Law that focuses specifically on social justice?



6a) Please explain.



7) What specific learning outcomes do you think could be met through a social justice externship program?








8) Please rank the following externship structure from 1-5

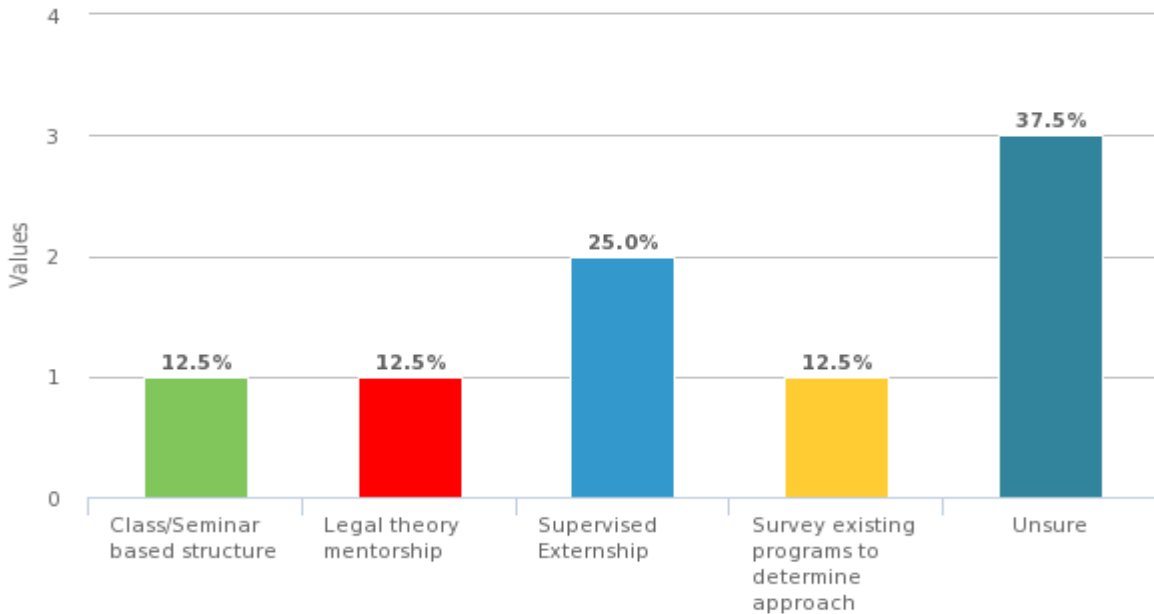
	(1) Most Ideal	(2)	(3)	(4)	(5) Least Ideal	Total Responses
Part-Time over one term	0 (0.0%)	1 (12.5%)	2 (25.0%)	3 (37.5%)	2 (25.0%)	8
Part-Time over two terms	4 (50.0%)	0 (0.0%)	2 (25.0%)	1 (12.5%)	1 (12.5%)	8
Part-Time over the	1	0 (0.0%)	0 (0.0%)	3	3	7

summer	(14.3%)			(42.9%)	(42.9%)	
Full-Time over one term	1	3	2	1	1	8
	(12.5%)	(37.5%)	(25.0%)	(12.5%)	(12.5%)	
Full-Time over the summer	2	4	2	0 (0.0%)	0 (0.0%)	8
	(25.0%)	(50.0%)	(25.0%)			

9) Considering your most preferred selection in Question 9, please indicate the total number of weekly externship hours.

Response	Chart	Percentage	Count
0-6		14.3%	1
7-12		42.9%	3
13-18		14.3%	1
19-24		14.3%	1
25-30		14.3%	1
30+		0.0%	0
		Total Responses	7



10) Considering the options in Question 9, what structure would be the most effective in supporting student learning? Please explain.



11) Additional Comments?

The 3 response(s) to this question can be found in Appendix 2.2(a).

Response	Chart	Percentages	Count
Importance of parallel development of standardized experiential learning approach and SJ externship program		33%	1

Need for equitable compensation for supervising faculty		33%	1
Need for student supervision by leaders/organizations in social justice advocacy		33%	1

Appendix 2.2(a)

11) Additional Comments?

#	Response
1.	<p>[Importance of parallel development of standardized experiential learning approach and SJ externship program]</p> <p>Yes. As I have said above, social justice externships have to be considered in the context of an overall, integrated, cohesive and principled approach to experiential learning. We do not, however, have to have that approach firmly in place before we begin to explore and put in place an enhanced social justice externships program. The two can be happening on parallel tracks.</p>
2.	<p>[Need for equitable compensation for supervising faculty]</p> <p>There is a need for 'teaching credit' for supervising faculty in order to equitably reflect the workload and to continue to motivate.</p>
3.	<p>[Need for student supervision by leaders/organizations in social justice advocacy]</p> <p>I would like to see students engage closely with social justice issues under the supervision of persons or organizations that have made their marks in social justice advocacy and work.</p>

Appendix 2.3

Community Survey Data Analysis

Survey Statistics

Survey Details The survey was administered through the online survey software FluidSurveys. The survey consisted of 17 questions across 6 webpages (Approximately 3 questions per page). The average participant completion time was 10 minutes.

Response Rate: Of 56 prospective participants invited to the study, 25 responded to the survey (RR=44.6%).

Completion Rate: Of the 25 respondents 21 fully completed the survey (CR=84%). In line with the University of Windsor's REB stipulation of voluntary withdrawal, participants were able to submit surveys that were not fully completed without penalty. Due to this stipulation, incomplete surveys (those containing answers to some questions but not all) were included in the data analysis.

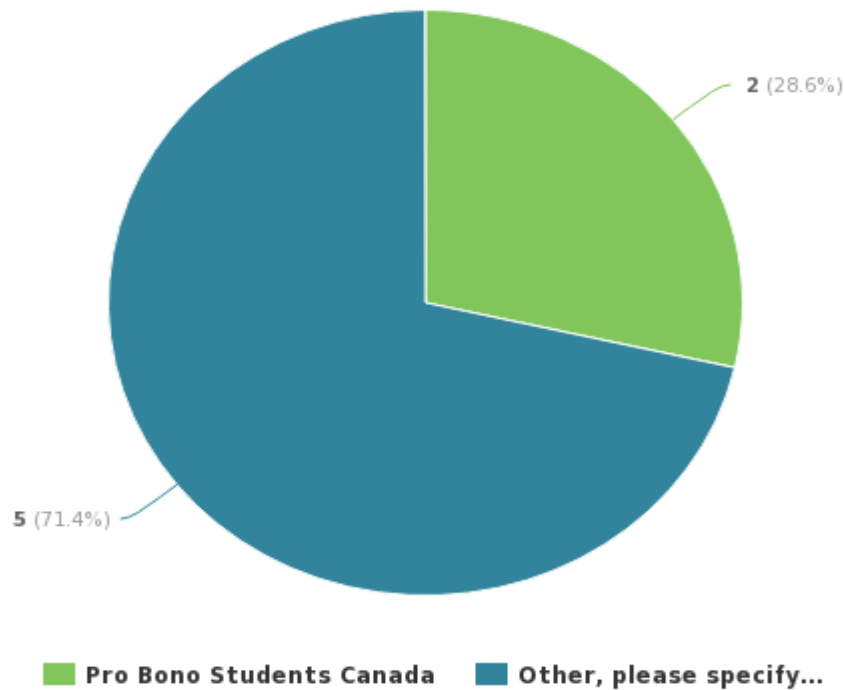
1) Has your organization ever offered practice experience for any students?

Response	Chart	Percentage	Count
Yes		100.0%	22
No		0.0%	0
		Total Responses	22

2) Has your organization ever offered practice experience for law students?

Response	Chart	Percentage	Count
Yes		36.4%	8
No		63.6%	14
		Total Responses	22

2a) If yes, through which program?



2a) If yes, through which program? (Other, please specify...)

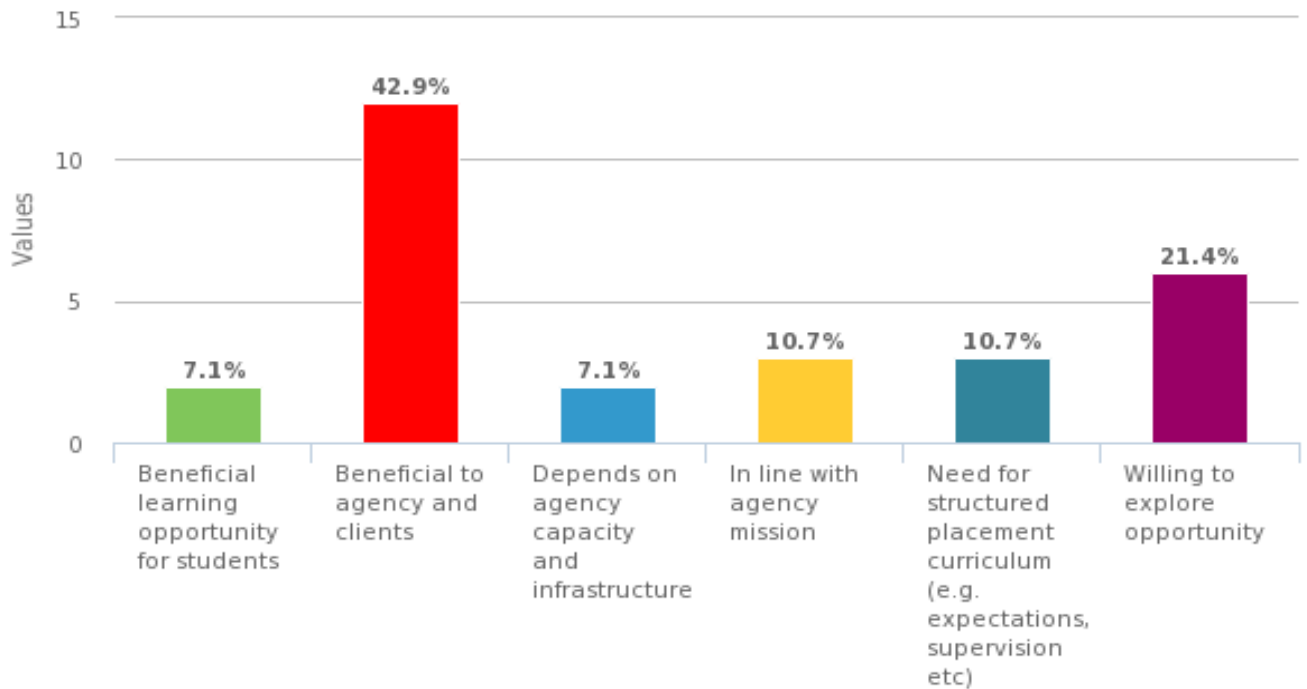
#	Response
1.	[Legal Assistance of Windsor (LAW)] LAW
2.	[Legal Assistance of Windsor (LAW)] Not sure of the specific program. They were from Legal Assistance Windsor.
3.	[MSW/JD program] MSW/JD program
4.	[St. Clair College- Paralegal Program] Paralegal Program at St. Clair College
5.	[UWin VIP program] UW VIP Volunteer Internship Program Law student accepted

3) Would you be interested in having a law student placed at your organization? Please explain.

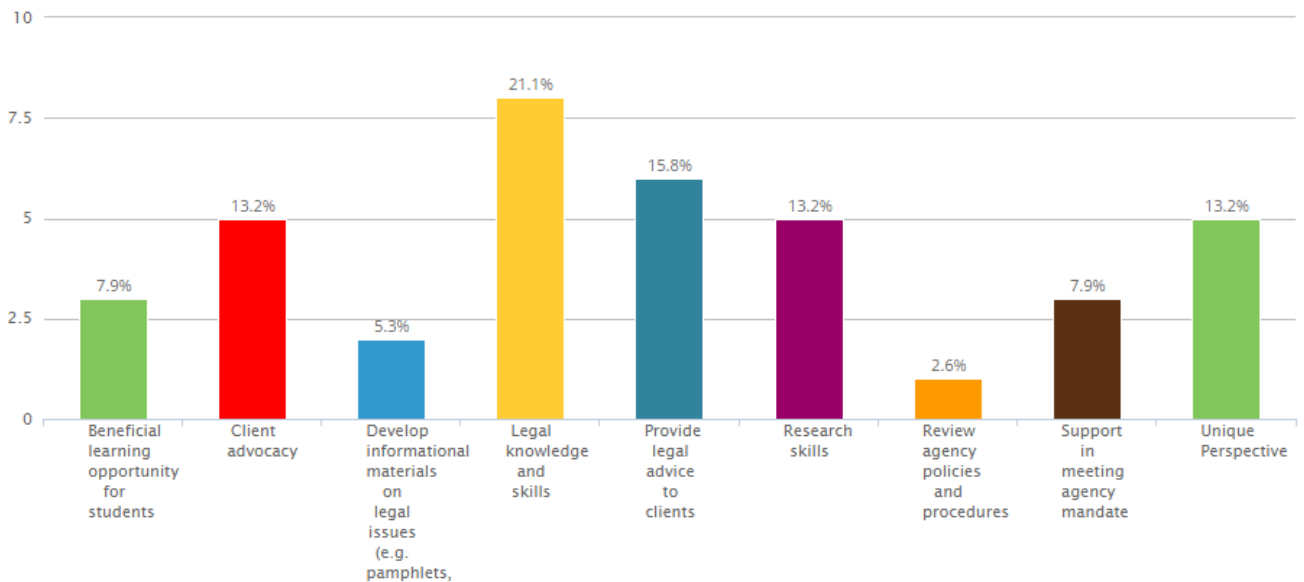
The 21 response(s) to this question can be found in Appendix 2.3(a).

Response	Chart	Percentages	Count
Yes		75%	15
Perhaps		25%	5

3a) Please explain.



4) What value do you think a law student might add to your organization?



5) What tasks do you think a law student might be able to complete at your organization?

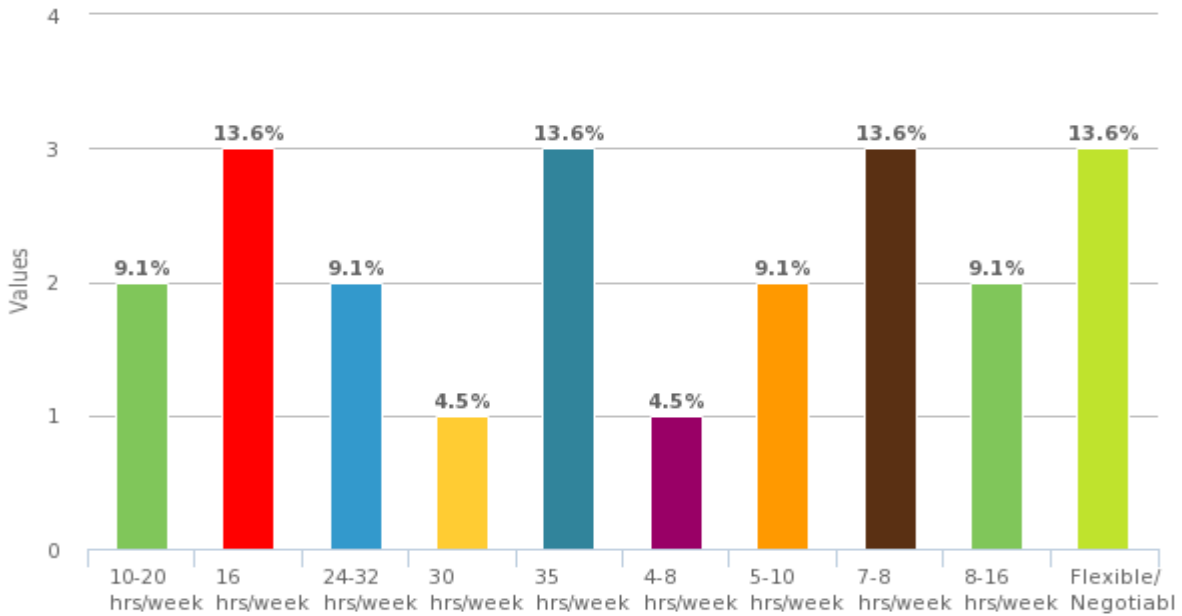
Response	Chart	Percentage	Count
Legal research		66.7%	14
Legal writing		28.6%	6

Community presentations/ public legal education		71.4%	15
Direct client service (giving legal advice to clients under the supervision of a lawyer)		66.7%	14
Systemic advocacy		61.9%	13
Law reform		19.0%	4
Legal work for the organization		38.1%	8
Other, please specify...		14.3%	3
Total Responses			21

5) What tasks do you think a law student might be able to complete at your organization? (Other, please specify...)

#	Response
1.	Partnering with staff to update policies, and specific programming. Grant writing, research, also with staff may be options.
2.	employment law
3.	Observe child protection proceedings

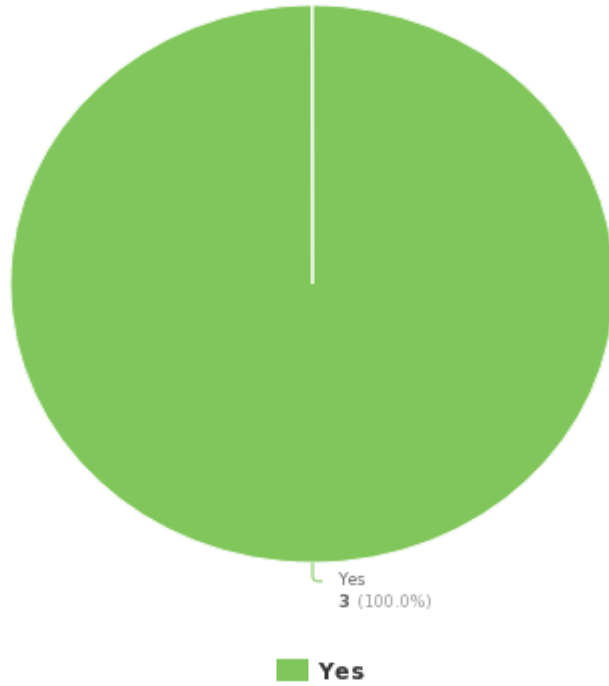
6) How many hours per week would you like a law student to work at your organization?



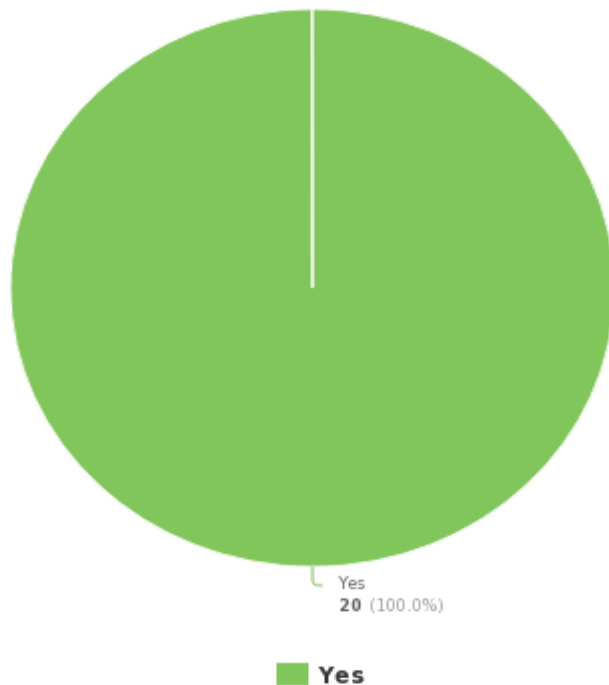
7) Does your organization currently have the resources to host student externs?

Response	Chart	Percentage	Count
Yes		80.0%	16
No		20.0%	4

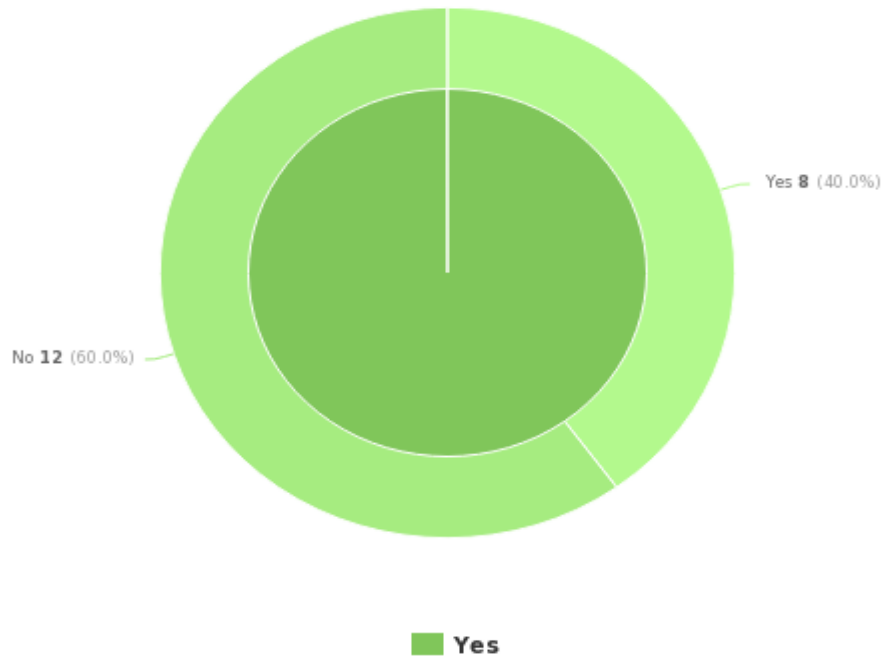
7a) If your organization did have the resources, would you be willing to host student externs?



8) Would you be willing to host a student extern if off-site supervision or supervisory support were available through Windsor Law?

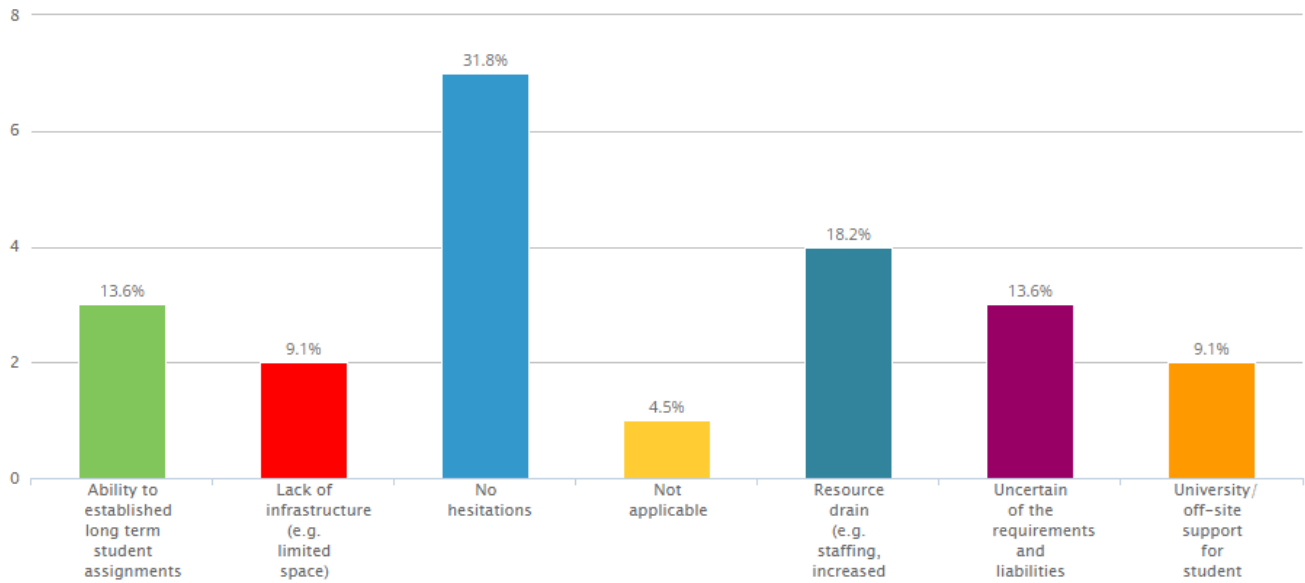


Crosstabulation: Question 8 (Willingness to host student extern with off-site supervisory support) vs. Question 2 (Previous agency placement offerings to Law students)

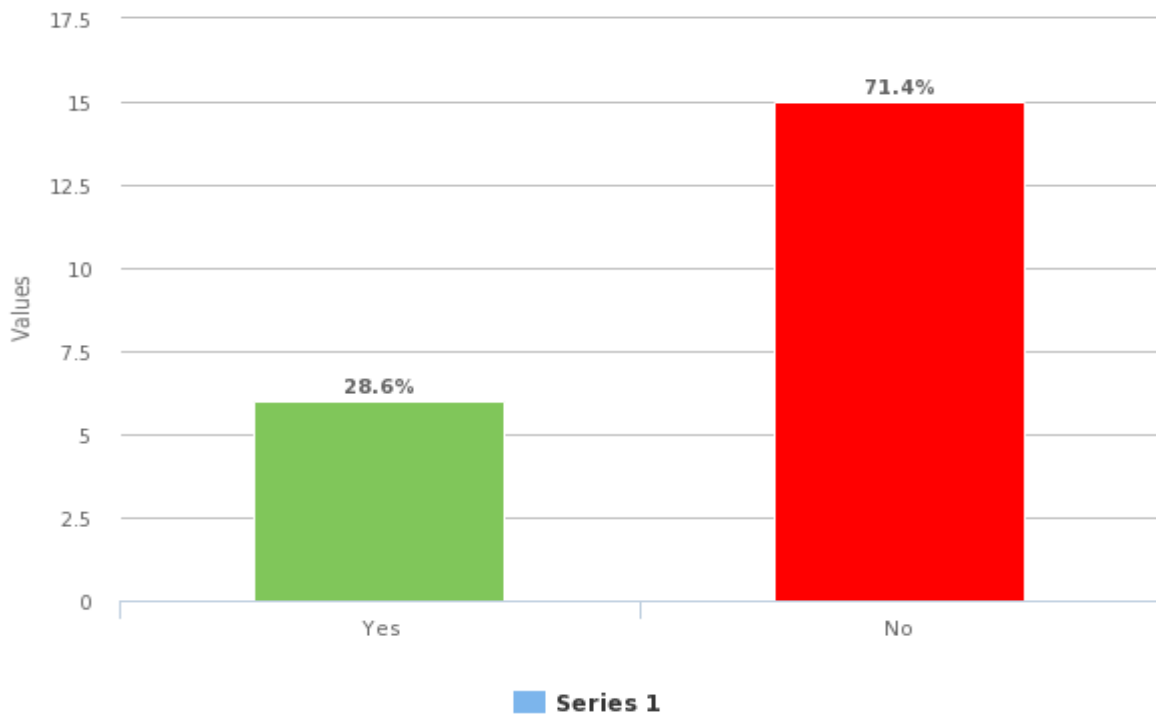


60% of those who answered No to the question "Has your organization ever offered practice experience for LAW students" stated that they would be willing to host a student extern if off-site supervision or supervisory support were available through Windsor Law.

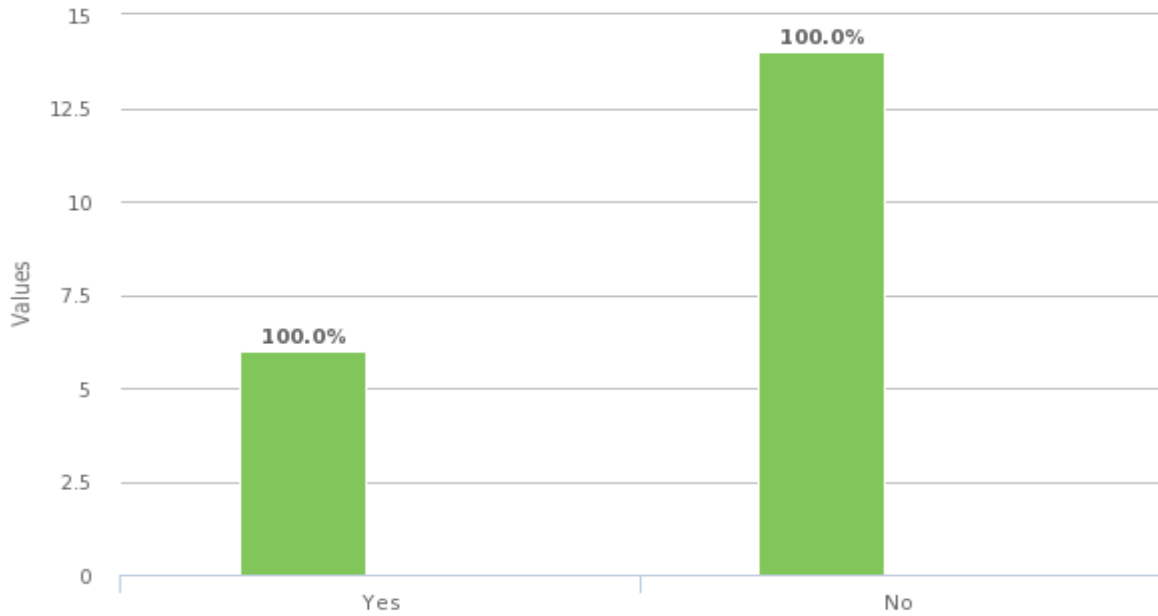
9) What hesitations, if any, do you have of hosting a student extern?



10) Do you have an onsite lawyer?

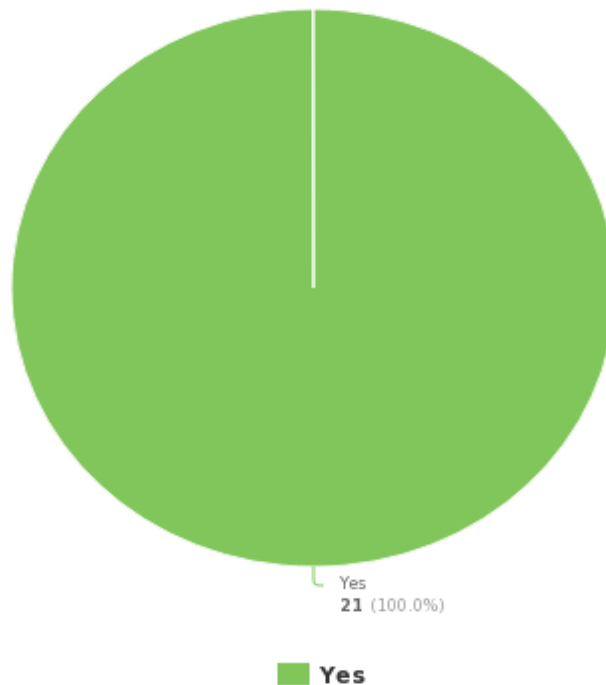


Crosstabulation: Question 10 (Agency access to an onsite lawyer) vs. Question 8 (Willingness to host student extern with off-site supervisory support)



100% of those who answered No to Question 10 "Do you have an onsite lawyer?" stated that they would be willing to host a student extern if off-site supervision or supervisory support were available through Windsor Law.

11) Would you be interested in receiving more information about this program?



Appendix 2.3(a)

2) Would you be interested in having a law student placed at your organization? Please explain.

#	Response
1.	I would certainly be willing to explore this opportunity more thoroughly.
2.	[Perhaps] I guess I would need to know more about what kind of experiences the externship program is seeking and what, exactly, a law student is allowed to do on this type of placement. At our organization, a law student might be able to help with advocacy issues for seniors accessing community support services or assist with advocating for newcomers. I'm not sure if a law student would want to sit on our social justice committee or organize a project through the committee. Perhaps they might like to provide an information workshop of some kind for clients.
3.	[Perhaps] Maybe - Residential group home - research
4.	[Perhaps] Only on an "ad hoc" basis. Each day our ministry reaches out to the poor. We go to them. We use our own vehicles. The needy don't come to us. Upon request we meet them at their place of residence, McDonalds, Tim H. etc.
5.	[Perhaps] Our organization accepts all post secondary volunteers
6.	[Perhaps] There may be interest in terms of linkage with custody and detention clients.

7.	[Yes] Absolutely. Many of our youth struggle with OW, ODSP, and landlord/tenant issues.
8.	[Yes] I would be interested in hosting a law student. I believe that we can offer law students an opportunity to learn about work in community settings. I believe that this relationship would be advantageous to both the students and the organizations.
9.	[Yes] I would love to, the workload and expectations of the student placement would need to be determined but if it can be done, then absolutely.
10.	[Yes] Yes - every year we seem to have issues with compliance and regulations. We would like to advocate that the City of Windsor By-laws that we operate with-in be updated but lack the personnel to pursue it.
11.	[Yes] Yes I would be interested in having a law student placed at our organization. Currently we provide placements for other programs and having students with a law background given our focus would help to enhance our educational services.
12.	[Yes] Yes I would be interested. We operate on a neighbourhood, as well as a municipal level in order to advocate for change in terms of equity and social justice. A law student could potentially bring a much needed expertise to our work.
13.	[Yes] Yes we are about to take on one articling student
14.	[Yes] Yes, I think that workforce development and understanding employment from a legal perspective would be beneficial to our organization
15.	[Yes] Yes, our guest often have questions concerning the law and it would be great to have assistance here for them.
16.	[Yes] Yes, we had LAW students and were considered a satellite office. Our clients found it very beneficial as they could get answers to their questions very quickly; they formed a trust with the students as they came every week; saved clients from finding transportation to the downtown office. The same holds true today as we make many referrals to LAW and provide bus tickets for clients, however many miss appointments which I believe would lessen if we had a student on site.
17.	[Yes]Yes.
18.	[Yes] Yes. I think there would be a benefit especially in the development of best practices used in other municipalities and challenges faced in program implementation
19.	[Yes] Yes. Our organisation is committed to providing newcomers to Canada information regarding legal systems in Canada and the Law students fulfill that need.
20.	[Yes] there would be interest, yes; only concern would be ensuring there is enough active work and placement experience to make the placement robust, and the level of on-site task supervisor specific to legal matters (on-site supervision would be via an MSW social worker). There would be ideas and activities we could pursue with a law student, but would want to ensure we are creating enough of a quality placement to make it meaningful for the

student as well as the agency.

21. [Yes]

yes....we have clients who have legal issues and students could help them navigate the system and educate them on things such as labour laws and landlord/tenant issues

APPENDIX 3 - BIBLIOGRAPHY

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