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Evaluating High School Students' Constitutional and Civic Literacy: A Case Study of the Washington, DC Chapter of the Marshall-Brennan Constitutional Literacy Project

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EVALUATING HIGH SCHOOL STUDENTS' CONSTITUTIONAL AND CIVIC LITERACY: A CASE STUDY OF THE WASHINGTON, D.C. CHAPTER OF THE MARSHALL–BRENNAN CONSTITUTIONAL LITERACY PROJECT

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ABSTRACT

The United States maintains a reputation as a vibrant, participatory democracy. Yet, paradoxically, formal civics education has essentially disappeared from America's public high schools, particularly urban public schools serving low-income and minority students. The Marshall–Brennan Constitutional Literacy Project, which is offered at almost zero cost to public schools and districts, developed as a response to the need for civics education in high schools and as a way to train future lawyers in public speaking, leadership, and counseling. To support the growth of the Marshall–Brennan project all over the country, the authors of this Essay came together to study the Marshall–Brennan project's efficacy in Washington, D.C., during the 2010–2011 academic year.

This Essay is based on a comprehensive data set of students in fifteen classes in twelve Washington, D.C. public and public charter schools during the 2010–2011 academic year. Students were asked substantive questions related to the curriculum and to their likelihood of participating in civic activities such as voting and jury service. The results indicate increased constitutional knowledge and higher likelihood of civic participation, although there is room for improvement.

The Essay ends with two conclusions. First, the authors seek to inspire a subsequent, larger study of the efficacy of the Marshall–Brennan model of training law students to teach high school students about the Constitution. Second, until a larger study is conducted, the authors draw from the 2010–2011 data to suggest changes to the current model, including a greater focus on drawing connections between civic knowledge and civic action.

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I. INTRODUCTION AND BACKGROUND

Americans score low on knowledge of the U.S. Constitution.[1] Studied and emulated by many other countries, the U.S. Constitution[2] is a virtually meaningless document to most Americans. Perhaps more surprisingly, schoolchildren, who typically have studied the document and related concepts more recently than have adults, also know little about the Constitution.[3] A major reason for the low level of constitutional knowledge in this country is that in recent years meaningful civics education has become a low priority in America's public high schools,[4] particularly urban public schools serving low-income and minority students.[5] In addition, the No Child Left Behind Act has changed the way classes are administered and the way success is defined. The emphasis is no longer on teaching critical thinking and engaging in topics in a hands-on way but rather on rote memorization and standardized testing.[6] Hence, civics has been reduced to memorizing random facts without teaching why those facts are relevant and how to put that knowledge to use in students' daily lives.[7]

One pronounced manifestation of the failure of our schools to teach how to put constitutional knowledge into action is the low rates of voter turnout in the United States. The United States has lower voter turnout

1. *See* NAT'L CIVIC LITERACY BD., INTERCOLLEGIATE STUDIES INST., OUR FADING HERITAGE: AMERICANS FAIL A BASIC TEST ON THEIR HISTORY AND INSTITUTIONS 6 (2008).

2. Davis S. Law & Mila Versteeg, *The Declining Influence of the United States Constitution*, 87 N.Y.U. L. REV. 762, 764–65 (2012).

3. *See, e.g.*, INST. OF EDUC. SCIS., U.S. DEP'T OF EDUC., THE NATION'S REPORT CARD: CIVICS 2010; NAT'L ASSESSMENT OF EDUC. PROGRESS AT GRADES 4, 8, AND 12, at 32–33 (2010) (showing that only 17% of the eighth graders surveyed offered "[c]omplete" or "[a]cceptable" responses to a sample question based on "how the Constitution divides various powers among the three branches of government").

4. *See* CAMPAIGN FOR THE CIVIC MISSION OF SCH. ET AL., GUARDIAN OF DEMOCRACY: THE CIVIC MISSION OF SCHOOLS 13–14 (Jonathan Gould ed. 2011).

5. *See id.* at 13; *see also* SCOTT KEETER ET AL., CTR. FOR INFO. & RESEARCH ON CIVIC LEARNING & ENGAGEMENT, THE CIVIC AND POLITICAL HEALTH OF THE NATION: A GENERAL PORTRAIT 27, 31 (2002) (showing that income and education correlate positively to civic involvement, and that "[s]tudents who attend schools that provide civic training in the classroom . . . are more involved than are students whose schools do not").

6. *See* LISA GUISBOND ET AL., NAT'L CTR. FOR FAIR & OPEN TESTING, NCLB'S LOST DECADE FOR EDUCATIONAL PROGRESS: WHAT CAN WE LEARN FROM THIS POLICY FAILURE? 1 (2012).

7. *See* CARNEGIE CORP. OF N.Y., A NEW CIVIC MISSION OF SCHOOLS 9 (2011) (noting that drilling students on facts is to the "detriment of their imagination and critical thinking skills").

than do most industrialized and many industrializing nations, and the rates are even lower for certain groups like African Americans and Latinos.[8] The Bipartisan Policy Center and the Center for the Study of the American Electorate estimate that the voter turnout in the 2012 election was around 57.5%.[9] In comparison, the voter turnout in the United Kingdom has been above 70% for decades.[10] African American voter turnout in the United States has continually lagged behind that of the rest of the population.[11] The excitement surrounding the first black President[12] and the groundswell of turnout in reaction to Republican attempts to suppress minority voters[13] have contributed to a major increase in African American turnout in the last two presidential elections.[14] Latino voter turnout has increased over the past few election cycles but still lags behind that of the rest of the population.[15]

What is clear is that teaching civics and government produces more engaged citizens.[16] For example, "15–26-year-olds who have taken civics classes are 23 percentage points more likely to believe they are responsible for making things better for society and 14 percentage points more likely to vote than their peers who have not taken civics."[17] Students who take civics or government classes help solve community problems, feel they can make a difference in their communities, volunteer and trust other people and the government, make consumer decisions for ethical or

8. *See* CTR. FOR THE STUDY OF SOC. POLICY, RESULTS-BASED PUBLIC POLICY STRATEGIES FOR PROMOTING YOUTH CIVIC ENGAGEMENT 3 (2011) ("[B]oth the educational experiences of youth themselves and the educational experience of their parents have an impact on whether or not young adults vote."). Because African Americans and Latinos have lower rates of educational attainment, African American and Latino children are less likely to vote. *See* SOC. SCI. DATA ANALYSIS NETWORK, TRENDS IN VOTER TURNOUT 2 (2009).

9. Press Release, Bipartisan Policy Ctr. & Ctr. for the Study of the Am. Electorate, 2012 Election Turnout Dips Below 2008 and 2004 Levels: Number of Eligible Voters Increases by Eight Million, Five Million Fewer Votes Cast (Nov. 8, 2012), http://bipartisanpolicy.org/library/report/2012-voter-turnout.

10. RAFAEL LÓPEZ PINTOR & MARIA GRATSCHEW, INT'L INST. FOR DEMOCRACY & ELECTORAL ASSISTANCE, VOTER TURNOUT SINCE 1945, at 154 (2002).

11. *See* SOC. SCI. DATA ANALYSIS NETWORK, *supra* note 8.

12. *Id.*

13. Roland Martin, *GOP Voter Suppression Fueled Black Turnout*, CNN.COM (Nov. 10, 2012, 10:33 AM), http://www.cnn.com/2012/11/09/opinion/martin-black-vote/index.html.

14. *See Blacks Voted at a Higher Rate than Whites in 2012 Election—A First, Census Bureau Reports*, U.S. CENSUS BUREAU (May 8, 2013, 5:00 PM), http://www.census.gov/newsroom/releases/archives/voting/cb13-84.html (noting that African American voter turnout increased from approximately 65% in the 2008 presidential election to 66.2% in the 2012 presidential election); Paul Taylor, *The Growing Electoral Clout of Blacks Is Driven by Turnout, Not Demographics*, PEW RES. CENTER (Dec. 26, 2012), http://www.pewsocialtrends.org/2012/12/26/the-growing-electoral-clout-of-blacks-is-driven-by-turnout-not-demographics/ (noting that African American voter turnout increased from 60.3% in the 2004 presidential election to approximately 65% in the 2008 presidential election).

15. Mark Hugo Lopez, Seth Motel & Eileen Patten, *A Record 24 Million Latinos Are Eligible to Vote, but Turnout Rate Has Lagged that of Whites, Blacks*, PEW RES. HISP. CENTER (Oct. 1, 2012), http://www.pewhispanic.org/2012/10/01/a-record-24-million-latinos-are-eligible-to-vote.

16. *Civic Education*, CENTER FOR INFO. & RES. ON CIVIC LEARNING & ENGAGEMENT, http://civicyouth.org/quick-facts/quick-facts-civic-education/ (last visited Mar. 19, 2013).

17. *Id.*

political reasons, believe in the importance of voting, and have higher rates of voter registration.[18] To improve voter turnout and other markers of civic engagement, educators and voting rights advocates should focus on the youth population.

A number of community and university-based programs have worked to ameliorate the gap in civic knowledge.[19] One of those groups is the Marshall–Brennan Constitutional Literacy Project (Marshall–Brennan), which is based in eighteen law schools across America, with four more to launch during the 2013–2014 academic year. This program trains talented upper-level law students to teach students in underserved public high schools.[20] Despite the existence of programs like Marshall–Brennan that are offered at basically zero cost, implementing them in high schools is a difficult task. Often these programs are asked to prove that they work before they are afforded support from local districts.[21] School districts and funders often throw around buzzwords such as "benchmarks," "outcomes-based practices," "performance measures," and "results-driven programming" when discussing the effectiveness of these programs. Although school districts and funders want to ensure high-quality and efficient programming, the measurement devices that are suggested by these buzzwords are of limited utility, especially when applied to a civic education program such as the Marshall–Brennan project.[22]

In 1999, American University Washington College of Law (WCL) Professors Jamin B. Raskin and Stephen Wermiel started the Marshall–Brennan project as an experiment.[23] As constitutional law experts, they realized there was a significant gap in constitutional and civic knowledge among public school students in and around Washington, D.C. By recruiting, training, and supporting highly motivated, engaged law students to teach high school students about Supreme Court cases that affect the rights of students in the public school setting, the project inspires soon-to-be lawyers to invest their time and energy in their local community. The law students, called Marshall–Brennan Fellows (Fellows), teach in pairs two to three days each week. The curriculum—three separate courses called Constitutional Law Survey, Youth Justice, and Special

18. *Id.*

19. There are a number of programs and web-based resources, including Justice Sandra Day O'Connor's iCivics, Street Law, Inc. and individual Street Law chapters, the Marshall–Brennan Constitutional Literacy Project, and others. *See* THE EDUCATION PIPELINE TO THE PROFESSIONS: PROGRAMS THAT WORK TO INCREASE DIVERSITY, at vii–xiii (Sarah E. Redfield ed., 2012).

20. *See The Marshall–Brennan Constitutional Literacy Project*, AM. U. WASH. C.L., http://www.wcl.american.edu/marshallbrennan (last visited Mar. 19, 2013).

21. Marshall–Brennan Annual Directors' Meeting, in Denver, Colo. (Nov. 29, 2012).

22. Although this sentiment certainly makes sense, it is important to realize the serious limitations in focusing on numbers only because it is very difficult to conduct research on minors, and numbers can only tell part of the story. For example, anecdotes paint vivid, poignant pictures that should also be taken into account.

23. *The Marshall–Brennan Constitutional Literacy Project*, *supra* note 20.

Topics in Constitutional Law—has been approved by the District of Columbia Public Schools for social studies elective credit. Fellows teach not only about the Constitution but also about the value of and logistics of obtaining higher education.

The project spread quickly across the country, mostly through word of mouth. Marshall–Brennan Fellows thoroughly enjoy and rave about their experiences, and their students have gone on to college and even law school thanks in large part to the support they receive from the Marshall–Brennan Fellows. Fellows write letters of recommendation, take students on college visits, and assist students through all stages of the application process, including the Free Application for Federal Student Aid and other financial aid. Still headquartered at American University, the Marshall–Brennan program had chapters at eighteen law schools in sixteen cities around the country during the 2012–2013 academic year.[24]

In an effort to explore whether Marshall–Brennan was meeting its goals of teaching young people how the Constitution applied to them and fostering appreciation for civic participation, the Washington, D.C. chapter engaged in a year-long evaluation during the 2010–2011 school year.[25] This Essay analyzes the data gathered through that evaluation and offers promising evidence to support the conclusion that students in Marshall–Brennan classes learn about their constitutional rights and responsibilities and change their attitudes about civic participation. The Essay is based on a comprehensive data set of students in fifteen classes spread across twelve Washington, D.C. public and public charter schools. Students were asked substantive questions about the curriculum and about their likelihood of participating in civic activities such as voting and jury service. The results indicate increased constitutional knowledge and higher likelihood of civic participation. This Essay will present the methodology and data for the study, and discuss the findings in the context of assessing the efficacy of Marshall–Brennan's work in Washington, D.C.

The Essay concludes with an explanation of two ultimate goals. First, the authors seek to share the initial positive findings with a larger

24. *Id.*

25. The authors could not find a program similar to the Marshall–Brennan project that has recently undertaken a similar evaluation process. Street Law, the civic education program most similar to the Marshall–Brennan project, has commissioned evaluations of many of its programs but does not seem to have evaluated its law school-based teaching programs recently. *See Evaluation Findings*, STREET LAW, INC., http://www.streetlaw.org/en/about/evaluation_findings (last visited Mar. 19, 2013). According to Street Law, the last time it evaluated its law school-based teaching programs was in the 1980s as part of an overall U.S. Department of Justice review of law-related education. *See Frequently Asked Questions*, STREET LAW, INC., http://www.streetlaw.com (last modified Feb. 28, 2001). The Center for Civic Education, although qualitatively different from the Marshall–Brennan project, has used the pre–post-test method to evaluate some its programs. Its evaluations could potentially be used for comparison or ideas on how to improve the Marshall–Brennan pre–post-testing process. *See Research and Evaluation*, CENTER FOR CIVIC EDUC., http://new.civiced.org/resources/research/researchevaluation (last visited Mar. 19, 2013).

audience. Second, the authors argue for a subsequent, larger study of the efficacy of the Marshall–Brennan model of training law students to teach high school students about the Constitution.

II. DATA AND METHODS

The data used in this Essay come from pre- and post-tests of high school students involved in Marshall–Brennan's work in Washington, D.C., during the fall 2010 and spring 2011 semesters. The high school students participated in semester-long classes and were asked to complete tests at the beginning and end of each semester. The purpose of the two tests was to assess whether Marshall–Brennan was meeting the goals listed in our syllabus of developing students' ability to "[(1) u]nderstand and apply basic constitutional principles[; (2) r]ead U.S. Supreme Court opinions[; (3) t]hink critically about different sides of controversial issues[; (4) f]ormulate an effective legal argument[; and (5) p]resent an appellate case before a lawyer and/or judge."[26] The pre- and post-tests were identical and consisted of thirty-one questions asking participants about their knowledge of the structure of the U.S. government, composition and function of the Supreme Court, understanding of the Bill of Rights, and knowledge of Supreme Court decisions. Additional questions assessed participants' critical thinking skills, participation in a moot court, understanding of the role of lawyers, and participants' current perception of their likely future civic participation.[27] Several of the questions had multiple parts, resulting in a total of forty-one questions in the final dataset. The questions were multiple choice, true–false, essay, and short answer. They were graded by the Fellows and then checked by a post-graduate Fellow who oversaw the evaluation process. The students' responses were scored as either correct, incorrect, or unanswered.

Data from the pre- and post-tests was entered into Microsoft Excel and imported into SPSS version 20.[28] Paired-samples t-tests were conducted to examine whether the scores on the post-test represented real gains from the scores on the pre-tests. The paired-samples t-test is a method that is often used with pre- and post-test data and assesses whether the mean difference from the first to second time point is different from zero. Thus, the null hypothesis is that the means will be equal, and the alternative hypothesis is that they will be different. A statistically significant result ($p < 0.05$) allows us to reject the null hypothesis and accept the alternative hypothesis.[29] For this Essay, the alternative hypothesis was that there was an increase in the number of participants with

26. Maryam Ahranjani, Am. Univ. Wash. Coll. of Law, Constitutional Law Survey Course Syllabus (Aug. 2013) (on file with author).

27. *See infra* Part VI (listing the questions).

28. SPSS is a data management and analysis program.

29. The $p < 0.05$ level is typically used to assess whether a result is significant in statistical analyses. A significance level of $p < 0.05$ indicates that there is a less than one in twenty chance that a finding is the result of chance, and so the finding is likely to represent a systematic or real change.

correct answers on the post-test as compared to the pre-test. We also examined individual-level change across the two time points to assess stability between the pre- and post-tests. Questions are grouped and presented in seven different categories: (1) structure of government; (2) Bill of Rights; (3) Supreme Court; (4) Supreme Court decisions; (5) critical-thinking skills; (6) moot court and the role of lawyers; and (7) civic participation and knowledge.

Overall, 48% of students enrolled in Marshall–Brennan classes in Washington, D.C., in the 2010–2011 academic year (n = 201) completed the survey at both time points. Although this completion rate is lower than we desired, it is reflective of the reality of many of the high school environments where the Marshall–Brennan project is implemented. In addition to students being absent when the pre- and post-tests were administered, many students joined the class after the pre-test was administered, and others left the class before the post-test was administered. This flow of students in and out of the classes was a phenomenon that was observed in all classes at the schools. As will be discussed later, the response rate is a potential limitation of the study. Yet, given the context in which the Marshall–Brennan project was implemented, the fact that nearly half the students completed both the pre- and post-tests gives us some confidence that the results presented below represent real gains in constitutional knowledge and understanding as a result of the Marshall–Brennan project.

III. RESULTS

Table 1 presents the changes from the pre-test to the post-test in the percentage of participants answering questions correctly about the structure of government. These questions asked respondents to name the three branches of government, to describe the roles of these branches, and to indicate why the Framers separated the government into these three branches. A correct answer on the branches of government questions indicates that a student was able to identify both the branch and its function. As is evident from the table, participants in the Marshall–Brennan program exhibited statistically significant ($p < 0.001$) increases in knowledge on each item from the pre- to the post-test.[30] The gains in knowledge ranged from 15% to 26% across the items. Although we will discuss this in more detail in Part IV, it is important to note that the level of knowledge about the branches of government and their roles was particularly low on the pre-test, ranging from 12% to 26% across the items. These results mean that despite significant and somewhat sizeable gains from the pre- to the post-test across each of these items, fewer than half of the students answered correctly on each of the items on the post-test.

30. In addition to the specific questions assessed through the pre- and post-tests, two additional measures were created. The first assessed how many participants answered all three branches correctly, and the second assessed how many answered one branch correctly.

The relatively low pre- and post-test scores reflect the public's lack of knowledge about the structure of government. These scores, however, were somewhat surprising to project leaders, initiating valuable discussions about curriculum design and the extent to which this knowledge relates to the Marshall–Brennan project's goals. Ability to recite the three branches and their functions is not necessarily an indicator of civic intelligence, but the project staff assumed a strong link between civic knowledge and action. It seemed intuitive that the missing link between social problems and students acting to solve those problems was knowledge about how the process of acting would work. For example, if students identified a school's harsh late attendance policy as a problem and knew the proper steps to having their voices heard about it (e.g., organize a group of concerned students, request a meeting with the principal, present their arguments in a concise and cogent manner), they would be more likely to take those steps. However, based on the results, further study is necessary to assess whether knowledge of the structure of the government correlates to civic engagement and action.

Table 1: Test Results Regarding the Structure of Government

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
Legislative Branch	23%	46%	+23 p.p.	−6.053
Executive Branch	17%	37%	+20 p.p.	−5.033
Judicial Branch	14%	33%	+19 p.p.	−5.793
All three branches	12%	27%	+15 p.p.	−4.644
At least one branch	25%	51%	+26 p.p.	−6.768
Separation of powers	26%	43%	+17 p.p.	−4.784

(a) Results represent statistically significant increases ($p < 0.001$).

Table 2 presents the results of the questions assessing knowledge of the Bill of Rights. As with respect to the questions regarding the structure of government, participants exhibited significant increases in knowledge on all of the questions pertaining to the Bill of Rights, reflecting an understanding of what it is and some of the specific protections included. As in the previous questions, participants' knowledge was low on the pre-test (the exceptions include the question asking what the Bill of Rights is and whether freedom of speech is included in the First Amendment). Gains on the various questions ranged from 12% to 39% of participants exhibiting increased knowledge. In fact, there were gains of more than 25% on six of the items, including the measure we constructed indicating whether a participant knew three or more of the protections included in the First Amendment. Unlike the previous questions, where fewer than 50% of the participants answered correctly on the post-test, more than 64% of the participants answered correctly across five of the nine measures, and 54% answered correctly on another measure.

Table 2: Test Results Regarding the Bill of Rights

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
Bill of Rights	80%	93%	+13 p.p.	−3.853
Fourth Amendment	17%	42%	+25 p.p.	−6.574
Six Protections in the First Amendment:				
Petition for redress of grievances	15%	54%	+39 p.p.	−10.729
Establishment of religion	15%	27%	+12 p.p.	−2.799 (b)
Right to assemble	21%	64%	+43 p.p.	−11.080
Freedom of the press	34%	69%	+35 p.p.	−8.723
Free exercise of religion	18%	29%	+11 p.p.	−2.455 (c)
Freedom of speech	53%	89%	+36 p.p.	−9.755
Three or more protections	30%	65%	+35 p.p.	−8.368

(a) Results represent statistically significant increases ($p < 0.001$), unless indicated otherwise.

(b) Results indicate significant gains ($p < 0.01$).

(c) Represents a significant result ($p < 0.05$) such that the null hypothesis is rejected and the alternative hypothesis is accepted.

The next set of questions, included in Table 3, assessed knowledge of the role and makeup of the United States Supreme Court. The results of the pre- and post-tests show that there were statistically significant increases ($p < 0.001$) for each of the items. Overall, gains ranged from 15% to 37% of participants exhibiting increased knowledge. Two of the questions assessing general knowledge on the role and composition of the Court were broader than the others. Participants scored higher on these items at the pre-test with gains of 18% and 37% from pre-test to post-test The other questions were somewhat more specific, asking about particular current and past Supreme Court Justices. Although only a relatively low percentage of respondents answered these questions correctly on the post-test, the gains were fairly strong, ranging from 15% to 30%.

As with the results listed in Table 1, both the pre- and post-test scores were low, thereby feeding the discussion about the value of knowledge relative to action. In particular, one wonders whether it is necessary for students to know the basic information about Supreme Court Justices to be able to apply Court opinions in making effective legal arguments. It is possible that the answer to this question is no, but it is a question worth exploring further.

Table 3: Test Results Regarding the Supreme Court

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
Final arbiter of the Constitution	37%	55%	+18 p.p.	−4.122
Number of Justices on Supreme Court	38%	75%	+37 p.p.	−8.775
Newest Supreme Court Justice	11%	35%	+24 p.p.	−7.175

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
First Hispanic Supreme Court Justice	11%	26%	+15 p.p.	−4.341
Two Justices who supported student rights:				
Thurgood Marshall	2%	32%	+30 p.p.	−9.014
William Brennan	0%	23%	+23 p.p.	−7.813

(a) Results represent statistically significant increases ($p < 0.001$).

Table 4 presents the results of questions that assessed knowledge regarding Supreme Court decisions. There are two types of questions included in the table. One type of question assesses understanding of the substance of decisions, whereas the other assesses understanding of the authority and application of Supreme Court precedent. Participants exhibited significant gains ($p < 0.01$) across all but one of the eight questions. The only question that students did not show a significant gain on asked about whether students had constitutional rights in schools, and more than 70% answered correctly on both the pre- and post-tests. Otherwise, gains in knowledge between time points ranged from 12% to 35%. Participants showed gains both on the substantive questions and on the questions assessing knowledge of the authority of the Supreme Court and what cases the Court must hear. In general, participants exhibited a high level of knowledge on all the questions on the post-test, and 60% or more answered six of the eight questions correctly. The question concerning *Brown v. Board of Education*[31] had the lowest percentage of correct answers (45%) at the post-test, which may seem surprising because it is such an important case. One potential explanation is that the *Brown* question is in short-answer rather than in multiple-choice format. Question format is something that can be changed if the study is replicated.

Table 4: Test Results Regarding Supreme Court Decisions

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
Students do not have constitutional rights	71%	72%	+1 p.p.	−0.229
Only some lower courts are bound by the Supreme Court	48%	60%	+12 p.p.	−2.595 (b)
Supreme Court must hear all cases	44%	72%	+28 p.p.	−6.961
What is a concurring opinion?	38%	54%	+16 p.p.	−3.220
What did *Roper* hold?	31%	60%	+29 p.p.	−6.756
What did *Graham* hold?	39%	62%	+23 p.p.	−4.559
What did *Tinker* hold?	50%	85%	+35 p.p.	−8.251

31. 347 U.S. 483 (1954).

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
What case overruled separate but equal?	27%	45%	+18 p.p.	−4.474

(a) Results represent statistically significant increases ($p < 0.001$), unless indicated otherwise.
(b) Results indicate significant gains ($p < 0.01$).

The results of the critical reasoning questions are included in Table 5. These questions are based on a fact pattern[32] about a critical comment a student posted on Facebook that led to his suspension from school. Participants were asked to answer three questions (first three rows in the table) and then complete an essay describing who they felt should win the case based on Supreme Court precedent to justify their answer. As the table exhibits, there were significant increases in participants' critical reasoning skills across each of the questions ranging from 10% to 34%. In fact, there was a 34% gain for each part of the essay question where students needed to identify and justify who should win. The smallest gain was on the question asking participants to identify one or more potential plaintiff. One reason for this was that participants did not name all three of the potential plaintiffs. Otherwise, strong gains were observed across each of the items assessing critical reasoning skills.

Table 5: Test Results Regarding Critical Reasoning Skills

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic (a)
What is the First Amendment right in question?	43%	69%	+26 p.p.	−6.090
Identify any potential plaintiff	9%	19%	+10 p.p.	−2.941 (b)
Identify any potential defendant	40%	60%	+20 p.p.	−4.576
Who should win Part 1?	42%	76%	+34 p.p.	−8.287
Who should win Part 2?	2%	36%	+34 p.p.	−10.225
Who should win Part 3?	14%	48%	+34 p.p.	−8.287

(a) Results represent statistically significant increases ($p < 0.001$), unless indicated otherwise.
(b) Results indicate significant gains ($p < 0.01$).

The items tapping into moot court participation and the role of lawyers are included in Table 6. As evident from the table, the percentage of participants reporting that they argued in a moot court increased significantly from 9% to 68% ($p < 0.001$). This is important because formulating an effective legal argument is a goal of the Marshall–Brennan project and participants are required to do so in the moot court process. Similarly, there were significant increases on each of the other questions. How-

32. *See infra* Part VI (showing the fact pattern).

ever, the percentage answering correctly on the pre- and post-tests differed substantially. Although the increase in students arguing a case before a lawyer or judge was significant, the overall percentage of participants that reported doing so in the post-test was only 17%.

Table 6: Test Results Regarding Moot Court Participation and the Role of Lawyers

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic
Ever argued in a moot court?	9%	68%	+59 p.p.	−15.473
Ever present an argument before a lawyer or judge?	4%	17%	+13 p.p.	−4.808
What do lawyers rely on in making arguments?	1%	16%	+15 p.p.	−5.704 (a)
Do lawyers argue for positions on which they disagree?	64%	80%	+16 p.p.	−4.025 (a)

(a) Results represent statistically significant increases ($p < 0.001$).

The items in Table 7 measure both future civic participation intention and civic knowledge. There were not significant increases on the two questions concerning future civic participation (willingness to serve on a jury and desire to vote). One reason for this was that the questions, particularly the question on intention to vote, had relatively high percentages on the pre-test. Both of the questions on civic knowledge had significant increases from the pre- to the post-test. Further work would include asking even more questions about civic participation, such as interest in running for public office, likelihood of using public facilities such as libraries and museums, and interest in volunteerism.

Table 7: Test Results Regarding Civic Participation and Knowledge

Question topic	Pre-test	Post-test	Percentage point (p.p.) change	t-statistic
I am willing to serve on a jury	48%	54%	+6 p.p.	−1.255
I will vote when I'm old enough	81%	87%	+6 p.p.	−1.96
Who is the mayor of Washington, D.C.?	77%	86%	+9 p.p.	−2.636 (a)
Who is my city council person?	17%	31%	+14 p.p.	−4.528 (b)

(a) Results indicate significant gains ($p < 0.01$).

(b) Results represent statistically significant increases ($p < 0.001$).

IV. DISCUSSION

Public opinion polls reveal that Americans, both adolescents and adults, generally know little about the Constitution and the structure and

function of government.[33] These results are alarming because the strength and vibrancy of the Constitution is dependent upon a well-informed and active citizenry. Unfortunately, little is being done to remedy this situation. Civics education in schools is being relegated to the back of the line in an era of high-stakes testing. Low citizen involvement in political processes, exemplified by low voter turnout rates, reflects a lack of attention to and interest in issues of citizenship and democracy that undergird our constitutional system.

Recent Supreme Court decisions have increased the power of corporations and the wealthy to contribute to political campaigns, elevating their interests and increasingly drowning out the voices of average citizens.[34] Thus, there is a need for programs to fill the gap and seek to promote constitutional literacy and engagement in order to fulfill the vision and aspirations of the Founders.

As discussed previously, the goal of the Marshall–Brennan Constitutional Literacy Project is to remedy the lack of constitutional knowledge and understanding among high school students and promote lifelong civic and political engagement. As such, Marshall–Brennan envisions young people, often thought of as objects to be shaped or problems to be managed, as active participants in our constitutional and political system. It is based on the theoretical proposition that young people will become more knowledgeable citizens and more active participants in political and civic processes if presented with certain information and taught certain skills. Specifically, they will become more engaged if they learn about and discuss their rights and responsibilities, the structure of our system of government, and the role and history of the Constitution in regulating this system, as well as if they participate in activities that develop critical reasoning and analysis skills. Moot court, a highlight of Marshall–Brennan, has a critical impact on students' interest in civic involvement, understanding of how government functions, and ability to envision themselves as lawyers.

This Essay represents the first step in documenting the effectiveness of the Marshall–Brennan project in achieving this goal. As the results indicate, high school students involved in the Marshall–Brennan project exhibited gains in constitutional knowledge and critical thinking skills. In fact, significant gains were realized on thirty-eight of the forty-one questions we tested, as well the three additional measures we created. On a

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33. *See, e.g.*, NAT'L CONSTITUTION CTR., MORE TEENS CAN NAME THREE STOOGES THAN CAN NAME THREE BRANCHES OF GOVERNMENT 1 (1998); NAT'L CONSTITUTION CTR., STARTLING LACK OF CONSTITUTIONAL KNOWLEDGE REVEALED IN NATIONAL CONSTITUTION CENTER SURVEY 1 (1997) ("Only 5 percent of Americans can correctly answer 10 rudimentary questions about the Constitution."); Andrew Romano, *How Dumb Are We*, DAILY BEAST (Mar. 20, 2011, 10:00 AM), http://www.thedailybeast.com/newsweek/2011/03/20/how-dumb-are-we.html.

34. *See* BLAIR BOWIE & ADAM LIOZ, U.S. PUB. INTEREST RESEARCH GRP., DISTORTED DEMOCRACY: POST-ELECTION SPENDING ANALYSIS 1 (2012).

substantive basis, many of the gains in knowledge and skills were quite large, and substantial percentages of young people answered many of the questions correctly on the post-test. It is important to note that the specific curriculum in each classroom was not based on the pre- and post-test. Questions were drawn from the Marshall–Brennan materials, but individual teaching teams had the flexibility to modify their specific classroom curriculum to the interests of the high school students. Thus, it is likely that some topics may not have been covered at all or may not have been covered in depth. This reality explains some of the differences and makes the gains across the results as a whole even more impressive.

It is interesting that high school students generally did better on the questions asking about specific amendments and cases than on the questions asking them to identify the branches of government and their respective roles. These results are likely because more attention was placed on cases than on the branches of government. It also likely reflects the scoring of these questions—students needed to answer correctly both components (branch and role) for their response to be scored as a correct answer. Given the importance of this question, however, the fact that only 27% of students named all three branches correctly suggests the need for more attention to the structure of government. Similarly, the percentage of students correctly answering the question regarding "which case overruled separate but equal" was low relative to the percentage answering correctly on other cases involving the holdings of specific Supreme Court decisions. Again, it is likely that classrooms focused more on other cases and issues. Yet it is surprising given the historical significance of the *Brown* decision and its continued salience today.

As noted, the development of critical reasoning and analysis skills is a central goal of the Marshall–Brennan project. High school students showed significant and fairly substantial increases in critical reasoning and analysis based on their analysis of the fact pattern provided in the pre- and post-tests. Also, a large percentage of the students who completed the pre- and post-tests reported that they participated in the moot court competition. The moot court competition is a task that requires a significant amount of reasoning and analysis, providing further evidence that the Marshall–Brennan project is fulfilling its goal of developing critical reasoning and analysis skills in its students. Interestingly, the questions designed to tap into civic participation and awareness showed no gains or relatively modest gains. In large part, the failure to realize significant gains in this area is because a high percentage of students reported on the pre-test that they planned to vote when they turned eighteen years old. Marshall–Brennan may also need to think more broadly about civic political participation, how it can be measured, and how well the Marshall–Brennan project is promoting action-oriented projects in addition to gains in knowledge and skills.

There are a number of ways in which Marshall–Brennan could promote more action-oriented projects. On a local scale, each chapter could ask Fellows to require students to engage in at least one civic-action project. Students would brainstorm problems and potential solutions and work toward those solutions with guidance from their Fellows. On a national scale, in the same way that moot court competitions leave students feeling enthused and motivated, the national headquarters could sponsor a civic-action competition. Students could submit action plans that demonstrate knowledge of some case or concept that we teach and how it relates to a social problem they have identified, and then lay out a plan to solve the problem. The winner(s) would receive a grant to enact the plan. This question of how to better link knowledge with action could also be discussed with the Marshall–Brennan Board of Advisors and with all the chapter directors at annual meetings.

Despite the positive results demonstrated above, we acknowledge that they are only a start. Although we have no reason to believe that these results are not generalizable based on our knowledge of other programs, these results are based on one program in one year and the completion rate for the pre- and post-test was slightly less than 50%. Additional research is necessary to examine the effectiveness of other Marshall–Brennan chapters in enhancing both knowledge and critical reasoning and analysis skills among high school students. This research can build upon and expand what we present here not only by corroborating knowledge gains but also by connecting these gains to outcomes. A pre- and post-test study is already ongoing at one other program site (University of Pittsburgh School of Law). As the Marshall–Brennan project continues to expand, it is important that the authors of the study of the WCL chapter provide guidance and support for other chapters to develop this knowledge base.

It is also important that future research seek to connect program participation, knowledge, and skill gains to specific behavioral outcomes such as voting and other forms of civic participation. This research will require enhanced theoretical development regarding the connection of Marshall–Brennan involvement to specific outcomes it seeks to achieve. The time is ripe for further study. Adopted by forty-five states and the District of Columbia, the Common Core State Standards (Common Core)[35] are now an enormous area of focus for educators. The Common Core State Standards provide clear, consistent expectations for what students should achieve at each grade level in every school. The idea is for students, parents, and teachers to have a shared understanding of curricular goals in mathematics and English language arts (which includes so-

35. *Mission Statement*, COMMON CORE ST. STANDARDS INITIATIVE, http://www.corestandards.org (last visited Mar. 19, 2013).

cial studies) across the country and to work together in achieving those goals.[36]

The Marshall–Brennan project is in the process of identifying how to support the Common Core's focus on the development of students' higher level thinking and critical analysis that results in interdisciplinary problem solving. As the Marshall–Brennan project continues to expand across the country and improve its curriculum, it will be important that the national headquarters at WCL and individual chapters think carefully about Common Core. Further study can enhance the existing work. For example, because of our findings, in Washington, D.C., we plan to incorporate flipping[37] during the 2013–2014 academic year to better utilize classroom time to discuss and apply the knowledge contained in the flipped lectures. Also, in Washington, D.C., we are reframing our curriculum to teach primary-source texts (especially Supreme Court case excerpts) in such a way that enhances the "civic knowledge to action" goal.[38] For example, after reading actual cases in a particular substantive area, students will be asked to perform related hypothetical scenarios and to articulate orally and in writing how the Court would rule based on their knowledge of the case precedent. In all likelihood, neither of these two advancements would have occurred without the research findings discussed in this Essay.

Although some of the theoretical components are highlighted in this Essay, further development is necessary to lead to the formation of testable hypotheses. Theoretical development and hypothesis testing will serve several purposes. First, they will help to articulate the specific outcomes that Marshall–Brennan can produce and to examine whether it is, in fact, producing those outcomes. Second, they will identify the pathways through which Marshall–Brennan produces desired outcomes, thereby providing feedback that can lead to program improvement. This type of work will require longitudinal, multi-site studies that employ comparison groups.

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36. *The Standards*, COMMON CORE ST. STANDARDS INITIATIVE, http://www.corestandards.org/the-standards (last visited Mar. 19, 2013).

37. Nick Anderson, *More on Classroom Flipping in Colleges*, WASH. POST (Mar. 11, 2013), http://articles.washingtonpost.com/2013-03-11/local/37618198_1_lectures-class-web-site-class-goals (describing the practice of providing students recorded online lectures to watch before class sessions in an effort to better utilize class time for application).

38. *See* SHEILA BROWN & LEE KAPPES, ASPEN INST., IMPLEMENTING THE COMMON CORE STATE STANDARDS: A PRIMER ON "CLOSE READING OF TEXT" 1 (2012) ("To prepare students for . . . college and [their] careers, . . . schools must place a greater emphasis on the teaching of increasingly complex texts.").

V. CONCLUSION

The United States has a global reputation as a participatory democracy.[39] However, there is still much work to be done in terms of voter participation[40] and other measures of civic engagement such as government transparency.[41] As future civic actors, young people maintain a critical space in the discussion and in the solutions. However, civics education has not been a national priority, particularly in low-income and minority communities. The Marshall–Brennan Constitutional Literacy Project hopes this Essay furthers the development of its efforts to teach high school students about the Constitution and encourage their civic participation. This Essay highlights some critical ways in which it is both achieving and falling short of its current goals.

VI. APPENDIX: HIGH SCHOOL CIVIC LITERACY EXAMINATION

Part One: Basic Constitutional Principles

1. List the three branches of government and what each branch does.
2. Why did the Framers separate the government into three branches?
3. What is the Bill of Rights?
    a. The first 10 words of the Constitution
    b. The first 10 amendments to the Constitution
    c. The part of the Constitution that talks about what is right and what is wrong
4. How many Justices sit on the U.S. Supreme Court?
5. Name the newest member of the Supreme Court.
6. What is the name of the first Latino or Hispanic Supreme Court Justice and which President appointed her?
7. Against what does the Fourth Amendment protect?
8. What are the six rights contained in the First Amendment?
9. Who is the final arbiter (interpreter) of the Constitution (circle one)?
    a. The U.S. Congress
    b. The President of the United States
    c. The U.S. Supreme Court
10. Who are the two former Supreme Court Justices known for their vigorous support of students' rights?

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39. *See, e.g.*, Adam Liptak, *'We the People' Loses Appeal with People Around the World*, N.Y. TIMES, Feb. 7, 2012, at A1 (noting that in 1987, 160 of the 170 countries in the world modeled their constitutions on the United States').

40. Howard Steven Friedman, *American Voter Turnout Lower than Other Wealthy Countries*, HUFFINGTON POST (July 10, 2012, 11:42AM), http://www.huffingtonpost.com/howard-steven-friedman/voter-turnout-europe-america_b_1660271.html.

41. Opensecrets.org and the Collaboration on Government Secrecy work to promote better transparency in terms of the government's response to citizens' inquiries about government documents through Freedom of Information Act (FOIA) requests. It can take years for an agency to respond to a FOIA request. Also, legislative lobbying is an area criticized for lack of transparency. *See* LEE DRUTMAN, BROOKINGS INST., A BETTER WAY TO FIX LOBBYING 1–2 (2011).

Part Two: U.S. Supreme Court Opinions

11. True or False: The Supreme Court has ruled that students do not have constitutional rights once they enter their schools.
12. True or False: Only some lower courts are bound by the decisions of the Supreme Court.
13. True or False: The Supreme Court is required to hear every case that is appealed to it.
14. Which one of the following describes a concurring opinion?
    a. It is the opinion written by the Justices who disagree with the majority holding.
    b. It is the opinion written by the Justices who agree with the majority holding but disagree with the reasoning.
    c. It is the opinion written by the majority of Justices.
15. Which of the following is true (circle one):
    a. The Eighth Amendment supports cruel and unusual punishment.
    b. According to *Roper v. Simmons* (2005), the Eighth Amendment prohibits execution of juveniles for any reason.
    c. According to *Roper v. Simmons* (2005), the Eighth Amendment permits execution of juveniles.
16. Which of the following is true (circle one):
    a. The Supreme Court ruled in *Graham v. Florida* (2010) that juveniles can be sentenced to life in prison without parole for a non-homicide crime.
    b. The Supreme Court ruled in *Graham v. Florida* (2010) that juveniles cannot be sentenced to life in prison without parole for a non-homicide crime.
    c. The Supreme Court ruled in *Graham v. Florida* (2010) that juveniles cannot be sentenced to life in prison without parole for a homicide crime.
17. Which of the following statements correctly identifies the rule from *Tinker v. Des Moines Independent School District* (1969)?
    a. Student speech can be censored if it constitutes a "material and substantial disruption" to school functioning.
    b. Students can never wear black armbands to school.
    c. Students cannot engage in political speech at school.
18. Name the 1954 Supreme Court case that established that separate but equal public schools are not equal.

Part Three: Critical Thinking About Different Sides of Controversial Issues

Read the following fact pattern and then answer questions 19 through 22. In answering the questions, do not assume or infer any additional facts.

A student, at home and on his own time, posts a comment on Facebook that is extremely critical of his social studies teacher. The next day, students are talking about the posting during class. The principal believes the posting is disruptive to school functioning and suspends the student. The student protests his suspension, and the school board decides to intervene.

19. Which First Amendment right is in question?
20. Given these facts, circle any potential plaintiff(s) in a lawsuit?

a. The suspended student
b. The parents of the suspended student
c. Other students who have been suspended for posting comments on Facebook
d. The principal
e. The girlfriend of the suspended student

21. Circle any potential defendant(s) in the suit.
    a. The suspended student
    b. The parents of the suspended student
    c. Other students who have been suspended for posting comments on Facebook
    d. The principal
    e. The girlfriend of the suspended student
22. Who do you think should win the lawsuit? Use at least one Supreme Court case to support your answer.

Part Four: Formulating Effective Legal Arguments

23. Have you ever participated in moot court (Yes or No)?
24. Upon what must lawyers rely in making appellate arguments?
25. Do lawyers sometimes have to present arguments with which they personally disagree (Yes or No)?

Part Five: Presenting an Appellate Case Before a Lawyer or Judge

26. Have you ever presented an appellate case before a real lawyer or judge (Yes or No)?
27. If so, when?

Part Six: Current Events and Civic Engagement

28. Who is the current mayor of Washington, D.C.?
29. True or False: I am willing to serve on a jury.
30. True or False: When I become old enough to vote, I am likely to vote.
31. Who is the city council member who represents your ward?