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Public Interest 101: Using the Law School Curriculum to Quell Public Interest Drift and Expand Students' Public Interest Commitment

Lynn A. Addington

Jessica L. Waters

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PUBLIC INTEREST 101: USING THE LAW SCHOOL CURRICULUM TO QUELL PUBLIC INTEREST DRIFT AND EXPAND STUDENTS' PUBLIC INTEREST COMMITMENT

LYNN A. ADDINGTON AND JESSICA L. WATERS*

Introduction	79
I. A Brief Overview of Public Interest Drift Literature	83
II. The Marshall-Brennan Project Study	88
A. The Marshall-Brennan Project	89
B. Methodology	90
C. Initial Findings	93
1. Background—Who Are the Fellows?	93
2. Law School Attitudes	94
3. Career Plans	95
III. Discussion	97
Tables	102

INTRODUCTION

In recent years, the legal community has called on law schools to bolster their commitment to serving their communities and to engaging law students in public interest and pro bono work.¹ Despite this directive,

* Lynn A. Addington, J.D., Ph.D., is an Associate Professor in American University's School of Public Affairs. Jessica L. Waters, J.D., is an Assistant Professor in American University's School of Public Affairs and an Adjunct Professor at American University's Washington College of Law. We would like to thank the current and former directors of the Washington College of Law Marshall-Brennan Constitutional Literacy Project—Jamin Raskin, Maryam Ahranjani, and Steve Wermiel—for their enthusiastic support throughout the course of this study, as well as American University's School of Public Affairs for its research support. We would also like to thank our research assistants Michele Frazier, Aleksandra Kocelko, and Laura Tyler for their tireless work on this project.

1. See, e.g., ASS'N OF AM. LAW SCHS., PURSUING EQUAL JUSTICE: LAW SCHOOLS AND THE PROVISION OF LEGAL SERVICES 3, 5-6 (2002), available at http://www.aals.org/equaljustice/final_report.pdf (discussing law schools' roles in providing public interest legal services and training law students to pursue such work); Deborah L. Rhode, *Creating Cultures of Commitment: Pro Bono Activities in Law*

research on the employment patterns of recent law school graduates consistently indicates that only a small minority of new lawyers embark on a public interest law career path. Each year, the National Association for Law Placement (NALP) surveys recent law school graduates to, in part, obtain information about “the employment experiences of new law graduates.”² The NALP survey of the 2010 graduating class found that of the employed graduates, two-thirds worked in either private practice or business (50.9% and 15.1%, respectively).³ In contrast, only 6.7 % of employed graduates held public interest jobs.⁴ This distribution of initial career decisions is consistent with previous NALP data. Of the 2009 employed graduates, 55.9% worked in private practice, 13.5% worked in business, and 5.7% worked in the public interest sector.⁵ Similarly, of the 2008 employed graduates, 56.2% worked in private practice, 13.4% worked in business, and only 5.4% worked in public interest.⁶

These survey results demonstrate the stark disconnect between the seemingly widely accepted goal of producing public interest lawyers and the dearth of law school graduates who opt to embark on these careers.⁷ In response to this situation, bar associations,⁸ law schools,⁹ and professional

Schools, ASS’N OF AM. L. SCH. (Nov. 1998), <http://www.aals.org/presidentsmessages/culcom.html> (calling on law schools to make pro bono programs and public interest work “a priority”); *see also infra* notes 8-10 and accompanying text (describing similar efforts by law schools, bar associations, and professional legal associations).

2. NAT’L ASS’N FOR LAW PLACEMENT, EMPLOYMENT FOR THE CLASS OF 2010—SELECTED FINDINGS 2-3 (2011) [hereinafter NALP 2011 REPORT], *available at* <http://www.nalp.org/uploads/Classof2010SelectedFindings.pdf> (surveying law students nine months after the typical May graduation).

3. *Id.* at 2.

4. *Id.* at 3 (including both public interest organizations and public defenders in the “public interest” category, and, when looking at a broader category of “public service” jobs to include military and other government jobs, judicial clerkships, and public interest positions, finding that 28.8% of jobs held by recently employed graduates were “public service” jobs).

5. NAT’L ASS’N FOR LAW PLACEMENT, EMPLOYMENT FOR THE CLASS OF 2009—SELECTED FINDINGS 3 (2010), *available at* http://www.nalp.org/uploads/Class_of_2009_Selected_Findings.pdf (“Public service jobs . . . accounted for 25.8% of jobs taken by employed graduates.”).

6. *See id.* (explaining that public service jobs “remained relatively stable” at 25.8%); *see also* Tan N. Nguyen, *An Affair to Forget: Law School’s Deleterious Effect on Students’ Public Interest Aspirations*, 7 CONN. PUB. INT. L.J. 251, 251 (2008) (noting similar NALP statistics for 2005 graduates).

7. *See supra* note 1 and accompanying text (describing how law schools, bar associations, and legal organizations are working to train new public interest lawyers); *see also infra* notes 8-10 (detailing law schools’ efforts to train new public interest lawyers).

8. *See, e.g.*, Diane Curtis, *Encouraging Law Students to Pursue Public Interest Careers*, CAL. B. J. (Jan. 2007), <http://archive.calbar.ca.gov/Archive.aspx?articleId=82721&categoryId=82661&month=1&year=2007> (describing efforts to remove financial barriers blocking students from pursuing public interest work).

9. Many U.S. law schools have created public interest law centers and programs.

legal organizations¹⁰ have steadily called for law school-based efforts to both encourage law students to pursue public interest careers and to remove existing barriers that may prevent students from pursuing these career paths. The role of legal education in creating public interest lawyers is particularly important given the “various studies undertaken during the past thirty years [showing that] although a great deal of . . . graduates enter[] law schools with aspirations of engaging in public interest work following graduation, few actually do so.”¹¹ Scholarly literature has coined the term “public interest drift” to describe this observed phenomenon of law students’ declining interest in pursuing public interest careers between their entry into law school and graduation.¹² As Part I discusses, the legal community has devoted a great deal of attention to attempting to identify the factors contributing to drift,¹³ but less emphasis has been placed on whether particular efforts or influences exist that might serve as “bulwarks” against drift.¹⁴ Much of the drift work finds that the law school environment plays a pivotal role in both exacerbating and, importantly, potentially mitigating drift. With regard to factors that might exacerbate drift, several authors have explored the effect of the traditional law school curriculum on law students’ public interest commitments. They find that law students participating in the traditional law school curriculum experience disengagement “from the ideals that originally motivated them to pursue public interest work” in part because law school teaches students

See, e.g., Public Interest Center, NYU L. SCH., <http://www.law.nyu.edu/publicinterestlawcenter/index.htm> (last visited July 1, 2012) (establishing a center devoted to supporting careers in public interest law); *Public Interest Law Center*, PACE UNIVERSITY, <http://law.pace.edu/public-interest-law-center> (last visited Sept. 22, 2012) (advertising the Public Interest Law Center “founded in 2008 to centralize the Law School’s public interest components and to provide counseling, resources and opportunities for our students and alumni interested in public interest work”).

10. *See, e.g.,* Eden E. Harrington & Kathryn Holt Richardson, *Boosting Public Interest Morale Among Law Students*, NALP BULLETIN, Oct. 2000, at 15, available at <http://apps.americanbar.org/legalservices/probono/doc/6970.pdf> (calling for law schools to focus on law student pro bono activities with an eye toward cultivating public interest lawyers); *see also supra* note 1 and accompanying text (discussing similar calls by the American Association of Law Schools).

11. Nguyen, *supra* note 6, at 251.

12. *See* Erlanger et al., *Law Student Idealism and Job Choice: Some New Data on an Old Question*, 30 LAW & SOC’Y REV. 851, 853 (1996) (referring to law students’ decreasing interest in public interest careers from the time they begin law school to the time they graduate as “public interest drift”); *see also* Nguyen, *supra* note 6, at 256 (theorizing that the law school curriculum, among other factors, causes students to “drift away from an initial desire of practicing public interest law”).

13. *See infra* Part I (summarizing studies regarding factors potentially leading to public interest drift).

14. *See infra* Part I (detailing studies regarding factors potentially playing a role in quelling public interest drift). The “bulwark” phrasing is borrowed from Erlanger, *supra* note 12, at 855 (describing the characteristics which allow law students’ interest in public interest work to survive until graduation as the “bulwarks against drift”).

to “value the hierarchy of a law firm over a public interest career.”¹⁵ With regard to factors that mitigate drift, authors have identified the need for support for public interest work in the law school environment. Participation in public service activities, non-traditional law school programs, or both has been suggested as providing the “subcultural support” needed to counter drift by reinforcing law students’ initial public service values.¹⁶ While references have been made to the exacerbating effect the law school curriculum can have upon drift, little attention has been given to whether law school courses could be used as a bulwark against drift by demonstrating the value that law school administrators and faculty place on public interest work (by officially endorsing such courses in the curriculum) and by specifically providing subcultural support for students seeking public interest careers.

In an attempt to explore how the law school environment might be purposefully used to support students’ public interest commitment, we sought to examine whether participation in non-traditional, public service-oriented law school programs can affect students’ future career plans. In particular, we selected a program—the Marshall-Brennan Project at American University, Washington College of Law—housed as part of an official law school curriculum rather than as an extracurricular club or internship program. By selecting this type of program, we are able to study an activity that addresses two critical factors related to drift by: (1) providing an alternative class to the traditional law school curriculum (which appears to exacerbate drift) and (2) offering subcultural support to students with public interest aspirations. Understanding the effects of such a program on public interest drift can provide support for adopting this curriculum more widely as part of a policy to promote public interest lawyers. Given the literature and the program we selected, our research questions focus on the effect participation in this program has on students’ short- and long-term career goals as well as the effects on students’ views of their abilities as lawyers and views of law school.

Part I of this Article briefly examines the relevant literature on non-traditional legal education and public interest drift, with particular attention

15. Jenee Desmond-Harris, “Public Interest Drift” Revisited: *Tracing the Sources of Social Change Commitment Among Black Harvard Law Students*, 4 HASTINGS RACE & POVERTY L.J. 335, 346 (2007) (discussing disengagement from public interest ideals as a factor that affects a commitment to public interest).

16. Erlanger, *supra* note 12, at 862 (“[I]nvolvement in a supportive subculture during law school . . . [is an] important determinant[] of the ‘staying power’ of a pre-law school interest in a non-traditional career.”); *see also* ROBERT GRANFIELD, MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND 69 (1992) (finding, through a study of Harvard Law students, that most “students who resisted accommodating the dominant mode of legal consciousness tended to associate with each other . . . were members of the same law school organizations . . . and chose alternative summer legal internships”).

paid to identifying the factors that may aggravate drift as well as the factors or influences that may serve to quell drift.¹⁷ Part II describes the specific program we studied, details our research methodology, and summarizes our results.¹⁸ Part III first discusses the results of our research, which finds support for the hypothesis that participation in the Marshall-Brennan Project may serve to quell drift due to its effect on law students' confidence levels and its provision of subcultural support.¹⁹ Part III then briefly discusses the ways in which law schools can maintain, or even bolster, students' commitment to this public interest work.²⁰

I. A BRIEF OVERVIEW OF PUBLIC INTEREST DRIFT LITERATURE²¹

Multiple studies have addressed the long-standing problem of “public interest drift,” or law students' declining interest in working with underrepresented groups between entry into law school and graduation.²² In one of the first studies in this area, Craig Kubey found that, upon entering law school, 37% of law students at the University of California, Davis School of Law expected to be working as “movement,” “poverty,” or “public interest” lawyers one year after graduation.²³ By the third year, only 22% held these same expectations.²⁴ Likewise, Robert Stover found that, while in their first year, 33% of law students identified a public interest job as the most preferable; by their third year of law school, only 16% of students reported the same preference.²⁵ In one of the few

17. See *infra* Part I (finding everything from student debt to law school curricula influences law students' continued interest in public interest law upon graduation).

18. See *infra* Part II (studying the Marshall-Brennan Project at American University, Washington College of Law, by surveying Marshall-Brennan Fellows to determine whether this public interest program, which is supported by the law school curriculum, prevents drift).

19. See *infra* Part III (noting the differences between the Marshall-Brennan Project and traditional law school curricula and pedagogy).

20. See *infra* Part III (suggesting a shift in curricula so as to highlight public interest careers).

21. This literature review draws heavily on Tan N. Nguyen's and Jenee Desmond-Harris's respective thorough reviews of the drift literature. See *generally* Nguyen, *supra* note 6; Desmond-Harris, *supra* note 15.

22. Erlanger, *supra* note 12, at 851 (“[W]hile a substantial proportion of incoming law students are interested in careers in ‘public interest law,’ that interest wanes significantly during law school.”); see also Nguyen, *supra* note 6, at 251-52 (summarizing the drift literature).

23. Craig Kubey, *Three Years of Adjustment: Where Your Ideals Go*, 6 JURIS DR. 34, 34 (1976) (reporting results of survey of University of California, Davis School of Law Class of 1975).

24. See *id.* at 36 (finding that the percentage of students who were primarily motivated to practice law to “alleviate social problems” or “help individuals” fell from 57% to 34% between the first and third years of law school).

25. See ROBERT V. STOVER, MAKING IT AND BREAKING IT: THE FATE OF PUBLIC INTEREST COMMITMENT DURING LAW SCHOOL 13 (1989) (finding that the number of

longitudinal studies in this area, Erlanger and his colleagues followed a sample of law students for twelve years to compare students' original job preferences during law school with their actual first jobs.²⁶ In response to questions about "the job you would like to have five years after graduating law school," approximately half of incoming law students surveyed mentioned a field with a "social reform component."²⁷ When these same students were contacted nine years after graduation, only 13% reported that they actually took "non-traditional" jobs.²⁸

The question, of course, is *why* students' job preferences change so dramatically. Research suggests that drift may be attributable to a variety of factors. Desmond-Harris provides a summary of these studies and the factors that aggravate drift.²⁹ As she details, scholars have identified traditional law school pedagogy,³⁰ law students' diminishing confidence over the course of their law school career,³¹ and financial concerns (including educational debt)³² as factors that promote drift. Other scholars have pointed to the relatively short supply of public interest jobs available

respondents who expressed a desire for public interest practice was cut in half from time 1 to time 2 and that "the shifts in preference were almost entirely in one direction"—that is, away from public interest practice).

26. See Erlanger, *supra* note 12, at 852 (reporting results of studies of University of Wisconsin Law School Class of 1976 both prior to beginning law school and after graduation from law school).

27. See *id.* at 853 (citing "poverty law, consumer or environmental protection, or affirmative action" as examples of such careers).

28. See *id.* (noting that Erlanger's definition of "non-traditional jobs" is fairly narrow, including only "left-oriented" jobs such as "work in legal aid, as a public defender, or in a nonprofit organization"). But see *id.* (determining that while public interest law in the broadest sense still refers to the "representation of groups and individuals who have been historically underrepresented in the legal system," popular understanding in the legal community of those individuals and groups that qualify as "underrepresented" has greatly expanded, and is not necessarily "left-oriented").

29. See Desmond-Harris, *supra* note 15, at 347.

30. See *id.* ("[L]egal pedagogy promotes a set of legal concepts and vocabulary that separates students from the social concepts that fueled their public interest or altruistic commitments."). See generally Nguyen, *supra* note 6 (determining law school professors and curricula do not expose students to skill sets necessary for public interest law and portray public interest law as less prestigious and challenging).

31. See Desmond-Harris, *supra* note 15, at 347 (noting a theory that students become "so insecure, disengaged, and unmotivated over the course of legal education that even previously public interest oriented students find themselves mindlessly seeking the validation offered by employment at a large law firm").

32. See *id.* at 350-52 (finding that while students with a working-class background reported an increased desire to engage in social justice work, many confessed that financial constraints limited their ability to do so); see also AM. BAR ASS'N, LIFTING THE BURDEN: LAW STUDENT DEBT AS A BARRIER TO PUBLIC SERVICE: THE FINAL REPORT OF THE ABA COMMISSION ON LOAN REPAYMENT AND FORGIVENESS 9 (2003), <http://www.abanet.org/legalservices/downloads/lrap/lrapfinalreport.pdf> (citing law student debt as barrier to public interest careers). But see Nguyen, *supra* note 6, at 253-55 (arguing that law school debt correlates weakly with job choice).

to new graduates.³³

Of particular relevance to our research are the related explanations that: (1) the traditional law school curriculum and teaching methodologies contribute to public interest drift; and (2) the traditional law school curriculum's negative impact on students' confidence and engagement levels affects public interest commitment. First, some educators and scholars posit that "law school curricula steers students away from public interest law practice,"³⁴ and that "law school faculty often explicitly convey a negative view of what it means to practice public interest law to their students."³⁵ The competitive law school environment, fostered by law professors steeped in law firm culture and dominated by a curriculum that does not focus on the skill sets necessary for public interest law,³⁶ teaches students to devalue a public interest career and to seek the hierarchy of law firm culture.³⁷ The culmination of these factors leads law students to "disengage from the ideals that originally motivated them to pursue public interest work and to replace those ideals with those that are valued and reinforced in legal education."³⁸ While a central goal of the law school curriculum is to help students "think like lawyers," that realization is often accompanied by a sense of "detached cynicism" and a belief that law is "nothing more than a game."³⁹ As Robert Granfield notes, "[a]fter discovering the mystery of law, i.e., legal consciousness, many found little substance left in it . . . [and] [f]or most students, this completed their

33. Christa McGill, *Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear*, 31 LAW & SOC. INQUIRY 677, 692, 704-05 (2006) (explaining that a low supply of public interest career options is a barrier to public interest careers); see also YALE LAW SCH. CAREER DEV. OFFICE, PUBLIC INTEREST CAREERS 11 (June 2011), available at http://www.law.yale.edu/documents/pdf/CDO_Public/cdo-11-PI_Guide-PUB.pdf (noting that public interest organizations "tend to have occasional openings (versus 50 new associates each year [at law firms]), and they don't have a lot of money [to recruit on-campus]").

34. Nguyen, *supra* note 6, at 256 (citing Daniel B. Rodriguez, *Foreword: Public Interest Lawyering and Law School Pedagogy*, 40 SAN DIEGO L. REV. 1, 2 (2003) (recognizing that public interest lawyering requires a foundation in contemporary politics, as public policy lawyers find themselves drafting legislation regulation)).

35. *Id.* at 256 (articulating Duncan Kennedy's theory that law school faculty tend to perpetuate myths about the practice of the different types of law).

36. See *id.* at 256-57 (arguing that law schools focus on case method and corporate law to the exclusion of public interest law).

37. Desmond-Harris, *supra* note 15, at 346 (contending that students' ideals are altered by the exceptionally competitive environment of law school (citing Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591 (1982))).

38. *Id.*

39. GRANFIELD, *supra* note 16, at 63-64 (arguing that students adapt to this new consciousness by "assigning value to it" as a mark of "intellectual development and sophistication").

removal of any involvement in the law as a search for justice.”⁴⁰

A related body of research consistently finds significant stress, anxiety, depression, and dissatisfaction among law students.⁴¹ Many commentators link this distress and dissatisfaction to “the law school educational process itself,” noting that law students are “normal” when entering law school but experience significant increases in psychiatric distress during law school.⁴² Some attribute this distress and dissatisfaction to legal education’s emphasis on analytical skills to the exclusion of interpersonal skills,⁴³ as well as the use of traditional legal teaching methodologies, including use of the Socratic Method.⁴⁴ The all-consuming academic environment, particularly during the first year, may also contribute to a separation from ideals and issues that may have initially brought students to law school.⁴⁵ As Desmond-Harris explains, some scholars argue that “resignation and insecurity resulting from the trauma of the law school experience are the culprits for decreased public interest commitments, as they make students doubt the career choices available to them and their ability to chart their

40. *Id.* at 65.

41. *See, e.g.*, G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students*, 1986 AM. B. FOUND. RES. J. 225, 246 (“[B]efore law school, subjects develop symptom responses similar to the normal population. This comparison suggests that prospective law students have not acquired unique or excessive symptoms that set them apart from people in general. During law school, however, symptom levels are elevated significantly when compared with the normal population. These symptoms include obsessive-compulsive behavior, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism (social alienation and isolation). Elevations of symptom levels significantly increase for law students during the first to third years of law school. Depending on the symptom, 20-40% of any given class reports significant symptom elevations.”); Nisha C. Gottfredson et al., *Identifying Predictors of Law Student Life Satisfaction*, 58 J. LEGAL EDUC. 520, 520 (2008) (“Law students are, on average, far more stressed, anxious, and depressed than the general population.”).

42. *See* Benjamin et al., *supra* note 41, at 247 (“It also appears that the law school educational process itself affects individuals rather than that certain types of individuals choosing to enter law school overreact to the process because of their unique and rare vulnerabilities. Specifically, on the basis of epidemiological data, only 3-9% of individuals in industrial nations suffer from depression; prelaw subject group means did not differ from normative expectations. Yet, 17-40% of law students and alumni in our study suffered from depression, while 20-40% of the same subjects suffered from other elevated symptoms.”).

43. *See id.* at 250 (“Conventional legal education that concentrates on the development of analytic skills while ignoring interpersonal development may increase distress levels and prevent the alleviation of symptoms . . .”).

44. *See, e.g.*, Orin S. Kerr, *The Decline of the Socratic Method at Harvard*, 78 NEB. L. REV. 113, 119 (1999) (noting that “students who came to law school with firmly held moral or political beliefs are likely to feel as if their belief systems are under ‘ideological assault’” when the traditional Socratic method is used).

45. *See* STOVER, *supra* note 25, at 51 (finding that a “decline in attendance [at National Lawyers Guild meetings at the University of Denver College of Law] almost certainly resulted from the reduced importance of political and social concerns for students who were overwhelmed by the intensity of the first year of law school”).

own career paths.”⁴⁶

Law schools may be able to counteract these environmental factors that are hostile to students seeking public interest careers. Researchers have found that “subcultural support”—that is, “students’ involvement in law school subcultures supportive of public interest employment”⁴⁷—may act as a “bulwark” against this drift.⁴⁸ Erlanger notes that the typical law student’s already high level of stress and anxiety is “even more significant for law students considering ‘bucking the trend’ and taking a nontraditional job,”⁴⁹ and thus “subcultural support” is critical to helping those students continue their commitment to public interest work.⁵⁰ Erlanger and his colleagues found that participation in law school programs with a social action component (such as the Center for Public Representation, the Community Law Office, or the Legal Assistance to Inmates Program) was important to students maintaining their commitment to non-traditional employment.⁵¹ Consistent with these findings, Stover found that drift seemed to be stymied by associating with students who held similar values with regard to public interest careers.⁵² Specifically, Stover found a statistically significant relationship between exposure to public interest centers—such as the National Lawyers Guild, the Student Law Center, or a public interest organization—and retaining a public interest preference.⁵³

46. Desmond-Harris, *supra* note 15, at 348 (citing Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 HARV. L. REV. 2027, 2042 (1998)). In addition, some students report being discouraged by career counselors from including references to prior public interest work or other experiences that deviate from an assumed norm, which “upsets some students” and “also produces a deadening of their moral sensibilities.” See Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 536 (March 2007) (explaining that law students are vulnerable to the advice of career counselors who attempt to morph their identities to fit the corporate ideal).

47. Desmond-Harris, *supra* note 15, at 353 (claiming that law students who surround themselves with like-minded individuals and participate in organizations supportive of their interest in pursuing a public interest career are more likely to maintain this interest throughout law school).

48. “Bulwark” phrasing borrowed from Erlanger, *supra* note 12, at 855.

49. *Id.* at 860 (noting several bulwarks against public interest drift, including gender, amount of debt upon graduation, family income, political orientation, and involvement with social-action law school programs).

50. *Id.* (finding students who participate in at least one social action law school program are much more likely to have a nontraditional first job than students who did not participate in social action programs).

51. See *id.* at 861 (noting, however, that correlation between subcultural support and drift did not reach statistical significance).

52. See STOVER, *supra* note 25, at 90 (preventing the loss of idealism associated with students as they grow older and are subjected to more of the law school dogma).

53. See *id.* at 110 (discovering, however, that “while the data are consistent with the argument that significant exposure to a public interest subculture plays an important role in insulating students from the eroding influence of the dominant professional culture,” analysis is limited because Stover could not “establish the causal order of the relationship”).

Given the existing research that suggests both the negative effect traditional legal education may have on students' desires to pursue public interest work and the positive effect subcultural supports have on quelling this public interest drift, a natural extension of this research is to inquire whether non-traditional legal education can provide this "subcultural support." At least one recent study suggests that it might. Sandefur and Selbin used data from the American Bar Foundation's "After the J.D." national survey of early career attorneys and found evidence of a "clinic effect."⁵⁴ In their study, recent law school graduates who had clinical education experience during law school and reported entering the profession for "civic" reasons were more likely to work in public service employment than those who did not report such a background.⁵⁵ Their study implicitly suggests that clinic work may have the potential to provide subcultural support against drift.

II. THE MARSHALL-BRENNAN PROJECT STUDY

The data available on public interest drift provide support for the theory that "subcultural support" may act as a bulwark against public interest drift. In the existing research, much of this subcultural support has taken the form of work with legal associations and public interest organizations.⁵⁶ More recently, a study by Sandefur and Selbin found some connection between non-traditional legal education—specifically, clinical work—and students' maintenance of commitment to public interest careers.⁵⁷ An open question is whether other types of non-traditional legal education could provide this same support. Drawing on the existing data and literature, we undertook the present study to determine whether non-clinical forms of non-traditional legal education can provide subcultural support against drift. The following discussion describes the program we studied, discusses our research methodology, and details our results.

54. Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57, 99-101 (2009) ("Clinical experiences may support or otherwise enable the public service work of people who are already more likely to do that work.").

55. *See id.* at 101 (noting the "strong relationship between clinical training experiences and public service employment" for new lawyers who "entered the profession . . . [with] a wish to help individuals as a lawyer or to change or improve society").

56. *See supra* notes 47-52 and accompanying text (summarizing the literature on subcultural support generally and via public interest organizations and legal associations).

57. *See* Sandefur & Selbin, *supra* note 54, at 99-101 (describing the link between clinic experiences and drift).

*A. The Marshall-Brennan Project*⁵⁸

The program we selected to study is the Marshall-Brennan Constitutional Literacy Project (Marshall-Brennan Project), the original branch of which is housed at American University, Washington College of Law (WCL) in Washington, D.C. The Marshall-Brennan Project, named in honor of the late United States Supreme Court Justices Thurgood Marshall and William J. Brennan, Jr., was founded in 1999 at WCL and, in recent years, has expanded to law schools around the country.⁵⁹ Developed to address the well-documented constitutional illiteracy and civic disengagement of America's high school students, the Marshall-Brennan Project seeks to teach high school students about their constitutional rights and responsibilities, democratic values, and the importance of being active citizens.⁶⁰ The "teachers" for these classes are known as "Marshall-Brennan Fellows" and are second- and third-year law students.⁶¹

Each year, after a competitive application process, approximately fifty law students are selected as Marshall-Brennan Fellows and assigned to teach at public junior and senior high schools ("secondary schools") throughout the District of Columbia and Maryland.⁶² These placements are predominately in underperforming secondary schools in low-income areas.⁶³ The classes taught by the Fellows center around a constitutional

58. See Interview with Maryam Ahranjani, Assoc. Dir., Wash. Coll. of Law Marshall-Brennan Project, in Wash., D.C. (Fall 2011) (providing details about the Marshall-Brennan Project, which are discussed in this section); see also *The Marshall-Brennan Constitutional Literacy Project*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/> (last visited March 16, 2012) (describing the curriculum and impact of the Marshall-Brennan Project at American University, Washington College of Law and other national and international chapters).

59. See Interview with Maryam Ahranjani, *supra* note 58 (explaining that in recent years the Project has expanded to law schools across the country, including Howard University School of Law, Rutgers Law School (Camden), Arizona State University Law School, University of Pennsylvania Law School, Drexel University Law School, Northeastern University Law School in Boston, University of Louisville Law School, William Mitchell School of Law in St. Paul, University of California Hastings College of the Law, Yale Law School, and Southern University Law School in Baton Rouge).

60. See Alexander Heffner, *Former Supreme Court Justice Sandra Day O'Connor on the Importance of Civics Education*, WASH. POST MAGAZINE, April 15, 2012, at A35 (citing a recent study that U. S. students "perform worse in civics and U.S. history than in any other subjects").

61. See *About Marshall-Brennan Fellows*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/fellows.cfm> (last visited July 24, 2012).

62. See, e.g., *Fellows*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/fellows.cfm> (last visited July 31, 2012) (detailing the selection process for Marshall-Brennan Fellows).

63. See *DC Metropolitan Area High Schools Participating in Marshall-Brennan*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/ourschools.cfm> (last visited July 31, 2012) (listing the secondary schools participating in the Marshall-Brennan Project in the District of Columbia); see, e.g., *Anacostia High School: Student Performance*, District of Columbia Public Schools, <http://profiles.dcps.dc.gov/scorecard/Anacostia+High+School> (last visited July 31,

law curriculum that utilizes U.S. Supreme Court cases.⁶⁴ These classes meet two to three times each week for the entire school year, and the Fellows teach in two-person teams. The Fellows continue to be enrolled as full-time law students, but concurrently have full responsibility for the classes they teach, which includes tasks such as drafting lesson plans, teaching, and grading, as well as meeting with students' parents and school administrators. In addition to their rigorous teaching responsibilities, the Fellows attend a weekly three-credit law school seminar focusing on substantive constitutional law and educational pedagogy.

The Marshall-Brennan Project offers a non-traditional course through the weekly seminar, as well as an opportunity to provide subcultural support through both the seminar and the team-teaching design.⁶⁵ In addition, it is a popular course option for the WCL students. To date, over 500 Fellows from WCL have participated in the Marshall-Brennan Project and more than thirty-six hundred Washington, DC-area secondary school students have benefitted from their classes.⁶⁶

B. Methodology

To measure the effects of participation in the Marshall-Brennan Project, we surveyed the Fellows twice during the 2010-2011 academic year: once before they started their teaching assignments in August 2010 and again, at the end of the law school year in May 2011. The mode for both surveys was a self-administered paper and pencil questionnaire. The survey instruments contained both closed and open-ended questions, and Fellows were encouraged to provide clarifying comments for any question. We developed and tested the instruments using focus groups and cognitive interviews with Fellows from the previous academic year and alumni Fellows. Both surveys were administered during the law school seminar component of the Marshall-Brennan Project in the presence of the principal investigators. No law school faculty or staff members were present, and students were assured that no personally identifying information or response would be shared with any law school faculty or staff. All participation in the survey was voluntary. We obtained a 95% response

2012) (describing how only nine percent of students met or exceeded the math standards and how only thirteen percent of students met or exceeded the reading standards in 2011 at Anacostia High School).

64. See *Curriculum*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/curriculum.cfm> (last visited July 31, 2012) (utilizing a curriculum designed to correct the effects of the "civil illiteracy" facing the majority of students in the United States by highlighting thirty-nine key Supreme Court cases which are most likely to impact the lives of the students).

65. See *About Marshall-Brennan Fellows*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/fellows.cfm> (last visited July 24, 2012).

66. See Interview with Maryam Ahranjani, *supra* note 58.

rate as a total of thirty-nine out of the eligible forty-one Fellows participated in both waves of the survey.⁶⁷

For the first data collection wave, the survey instrument asked the Fellows several sets of questions. One set concerned their expectations for their fellowship year, including expectations about their students, non-Fellow teachers at the schools where the Fellows were teaching (host schools), administrators at their host schools, and school climate. Another group of questions focused on the Fellows' current views and attitudes regarding law school, as well as their participation in law school co-curricular and extracurricular activities. The survey also collected information on the Fellows' plans for their short- and long-term career paths. Finally, information was collected regarding the Fellows' basic demographics, details about the Fellows' prior education and work experiences, and the Fellows' anticipated total educational debt upon graduation from law school. The second round of survey interviews collected data on similar issues in order to identify any changes that may have occurred during the academic year. Of particular relevance to the present study are questions about the Fellows' current attitudes toward law school and their current short- and long-term career plans.

The variables we utilize for the present study are the students' demographics, law school characteristics, law school attitudes, and career aspirations. Most of the variables were collected as quantitative measures from the survey instruments, but others (as indicated) were collected from open-ended questions. We coded these responses into quantitative variables using a form of inductive coding that is based on an immersion reading of the narratives.⁶⁸

Student demographic information included age, race, and sex.⁶⁹ The law school characteristics analyzed concerned the students' current grade point average (GPA),⁷⁰ their reasons for attending law school,⁷¹ their reasons for

67. Three Fellows dropped out of the program during the year for personal reasons and were replaced by three new Fellows. Since the replacement Fellows were not present to participate in the first survey, they were not included in the pool of eligible respondents. Two Fellows were unable to participate in the second round of surveys (post participation in the Marshall-Brennan Program). Since we did not have pre- and post-participation data from them, we excluded their pre-participation responses in the analyses presented here.

68. See generally B.L. BERG, *QUALITATIVE METHODS FOR THE SOCIAL SCIENCES* (Jeff Lasser ed., 5th ed. 2008) (noting that this type of analysis is useful for exploratory research that seeks to identify patterns and categorize narrative information into quantitative variables).

69. Race was collected as an open-ended question but, for analytical purposes, was collapsed into the categories of white, black, Hispanic, and other.

70. GPA was measured during the first wave to reflect students' final first year GPA.

71. Reasons for attending law school were collected from open-ended questions and coded as: to help people/make a difference, interest in legal topic/field, and other.

participating in the Marshall-Brennan Project,⁷² their participation in extracurricular activities,⁷³ and their estimated educational debt upon graduating from law school.⁷⁴ Law school attitudes examined the Fellows' views of their academic abilities and law school experiences based upon their agreement with specific statements.⁷⁵ Career aspirations included current immediate career plans and current long-term plans. "Immediate" plans concerned career plans upon graduating from law school, and "long-term" plans concerned career plans five to ten years after graduation from law school.⁷⁶

To explore our research questions concerning the effect of participation in the Marshall-Brennan Project on students' short- and long-term career goals, as well as on their views of their abilities as lawyers and of law school, we generated change estimates from data collected during both wave 1 and wave 2 of interviews.⁷⁷ These results are presented primarily as descriptive frequencies and contingency table analyses due to the small sample size (n=39).

72. Reasons for participating in the Marshall-Brennan Project were collected based on students' ranking their top choices from a list of options. The top ranked responses included: interest in working with an underserved community (either as a law student or as a possible career), interest in working with adolescents (as a law student or as a possible career), explore an interest in teaching, or other reasons (which could include prestige of the program and interest in constitutional law).

73. Information regarding participation in various extracurricular activities was collected. These activities included clubs, journals, Mock Trial, Moot Court, Clinic, internships, and other activities. For analytical purposes, these activities were categorized as traditional (journals, Mock Trial, and Moot Court) and non-traditional (clubs, Clinic, internships, other).

74. Estimated educational debt included the following categories: none; up to \$49,000; \$50,000-\$99,999; \$100,000-\$149,999; \$150,000-\$199,999; \$200,000-\$249,999; \$250,000-\$300,000; and over \$300,000.

75. See *infra* Part II.C.2 (discussing these variables).

76. Career categories included the following categories: criminal defense, criminal prosecution, government civil service, law enforcement, private practice, non-government public interest, teaching/academia, state/federal clerkship, other, and undecided. Public interest careers were categorized using the NALP public interest definition and included public interest organizations and public defender positions. Public service careers were categorized using the NALP public service definition and included criminal defense, criminal prosecution, government civil service, law enforcement, non-government public interest, and state/federal clerkship. See NALP 2011 REPORT, *supra* note 2, at 3 (discussing NALP definitions of public interest and public service). Non-public interest careers included private practice, teaching/academia, and other. For analytical purposes, these careers were grouped into public interest, public service, non-public interest/service, and undecided.

77. See, e.g., CLIFFORD E. LUNNEBORG, MODELING EXPERIMENTAL AND OBSERVATIONAL DATA 354 (Curt Hinrichs ed., 1994).

C. Initial Findings

1. Background—Who Are the Fellows?

Table 1 provides frequencies for the demographic and law school characteristics of the Fellows. The demographic composition of the Fellows is rather similar to their overall law school class based on data collected by WCL for the 2009 first year class, of which the Fellows in this study were a part. As indicated in Table 1, the Fellows had an average age of almost twenty-five years.⁷⁸ This age is comparable to their entering class age of twenty-four.⁷⁹ Among the Fellows, a roughly even split is observed between men and women, which is comparable to the sex pattern for their overall class at WCL (56% female and 44% male).⁸⁰ Racially, the Fellows reflect the overall diversity in the WCL class (49% of the Fellows and 42% of their overall WCL class are minority students).⁸¹

With regard to their law school characteristics, a similar comparison group is not available from WCL overall. In our study, almost 80% of Fellows had earned first year GPAs between 3.0 and 3.6.⁸² Over 60% of the Marshall-Brennan Fellows are expected to have over \$150,000 in educational debt for all of their post-secondary education.⁸³ Studies exploring law school debt alone (rather than combined with undergraduate debt) reflect a somewhat similar picture.⁸⁴ For example, a recent American Bar Association Report found that the average debt for private law school graduates is \$125,000 and the average debt at WCL was \$151,318.⁸⁵ With regard to extracurricular activities, 72% of Fellows participated in non-traditional, extracurricular activities—such as clinics, externships and clubs—in addition to their work with the Marshall-Brennan Project, while

78. See *infra* Table 1, *Frequencies and Mean for Selected Demographics and Law School Characteristics*. All reported data is on file with the authors.

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. See Debra Cassen Weiss, *Average Annual Law School Loan Jumped 50 Percent Since 2001*, A.B.A. J. (May 9, 2011 9:32 AM), http://www.abajournal.com/news/article/average_annual_law_school_loan_jumped_50_percent_since_2001/ (noting that in 2001-2002, law students borrowed an average of \$46,499 a year for public law school and \$70,147 for private school compared to \$68,827 a year for public law school and \$106,249 for private school in 2010).

85. See Debra Cassen Weiss, *Average Debt of Private Law School Grads Is \$125K; It's Highest at These Five Schools*, A.B.A. J. (Mar. 28, 2012, 5:29 AM), http://www.abajournal.com/news/article/average_debt_load_of_private_law_grads_is_125k_these_five_schools_lead_to_m (noting the amount of law school debt increased 17.6% from the prior year for students attending private law schools, of which American University was one of the top five schools with the highest average debt).

64% participated in traditional extracurricular activities, such as journals, Mock Trial, and Moot Court.⁸⁶

The Fellows' reasons for attending law school emphasized a public interest inclination. Over half (54%) of the Fellows were motivated by a desire to help people or to make a difference.⁸⁷ No Fellows indicated the pursuit of a "good" job or a high salary as a reason for entering law school.⁸⁸ Regarding their reasons for participating in the Marshall-Brennan Project, 41% cited a desire to work with underserved communities, 18% cited a desire to work with adolescents, 13% wanted to explore an interest in teaching, and 28% cited other reasons, such as the prestige of the Project, encouragement from past Fellows, and an interest in Constitutional Law.⁸⁹

2. Law School Attitudes

As part of the survey, the Fellows were given a series of statements concerning their academic abilities and law school experiences and were asked the extent to which they agreed with each statement based on a five-point Likert-type scale.⁹⁰ These same statements appeared on both waves of surveys. Given the literature detailing the typical decline in self-esteem and confidence over the course of law school, the following four statements are of particular interest: (1) "Since starting law school, I feel more confident in my academic abilities;" (2) "I am more confident during oral participation in class during law school than I was as an undergraduate;" (3) "Since starting law school, I feel more confident in my ability to be a good lawyer;" and (4) "Since starting law school, I have seriously questioned my decision to study the law." Table 2 provides the frequency with which the Fellows agreed with these statements during survey time 1 and time 2.⁹¹ Table 3 measures the change in attitudes from time 1 to time 2 for the Fellows.⁹²

Participating in the Marshall-Brennan Project had clear benefits for the participants' self-confidence in their law school performance. With regard

86. See *infra* Table 1, *Frequencies and Mean for Selected Demographics and Law School Characteristics*.

87. *Id.*

88. *Id.*

89. *Id.*

90. The response options included strongly agree, agree, neither agree nor disagree, disagree, and strongly disagree. These ordinal response categories reflect frequently used items in Likert-type scales used with attitudinal survey questions. See generally SARAH BOSLAUGH & PAUL ANDREW WATTERS, STATISTICS IN A NUTSHELL: A DESKTOP QUICK REFERENCE 202 (2008).

91. See *infra* Table 2, *Frequencies for Law School Attitudes at Time 1 and Time 2*.

92. See *infra* Table 3, *Changes in Law School Attitudes from Time 1 to Time 2*.

to confidence in academic abilities, less than half (49%) of the Fellows at time 1 agreed with the statement, “Since starting law school, I feel more confident in my academic abilities.”⁹³ At time 2, 82% agreed with this same statement, and 38% of the Fellows reported being more confident at time 2.⁹⁴ For confidence in oral participation in class, 38% of the Fellows reported feeling more confident at time 2.⁹⁵ This percentage is in addition to the 31% of Fellows who reported being confident in oral presentations at both times.⁹⁶

Participation in the Marshall-Brennan Project did affect the Fellows’ overall confidence in their ability to be a lawyer; specifically, it decreased their confidence. This finding may be partially attributable to the high percentage of Fellows agreeing with this statement (“Since starting law school, I feel more confident in my ability to be a good lawyer”) at time 1 (80%).⁹⁷ This finding, though, might also be connected with a related concept, which is questioning their decision to study law. Here 26% of Fellows reported questioning their decision to study law at time 1 and 44% questioned this decision at time 2.⁹⁸ As shown in Table 3, 18% became more questioning about attending law school over the course of their second year.⁹⁹ We did not ask any follow up questions to ascertain why the Fellows questioned law school at either time 1 or time 2. While any explanation is speculative, one reason for the increased questioning at time 2 could be attributed to participation in the Marshall-Brennan Project and to exposure to a possible alternative career, teaching. Alternatively, this questioning could be due to a more general questioning of law school that may occur to second-year students overall.

3. Career Plans

Participation in the Marshall-Brennan Project did affect the Fellows’ short- and long-term career plans. While previous research has shown that students tend to “drift” from their public interest ideals over the course of law school, our data showed that students participating in the Marshall-Brennan Project were actually more likely to intend to work in public interest—both as a short term and long term career goal—as their law school careers progressed. The percentage of Fellows intending to work in the public interest actually increased over the course of their participation

93. See *infra* Table 2, *Frequencies for Law School Attitudes at Time 1 and Time 2*.

94. See *infra* Table 3, *Changes in Law School Attitudes from Time 1 to Time 2*.

95. See *id.*

96. *Id.*

97. See *infra* Table 2, *Frequencies for Law School Attitudes at Time 1 and Time 2*.

98. *Id.*

99. See *infra* Table 3, *Changes in Law School Attitudes from Time 1 to Time 2*.

in the Marshall-Brennan Project.¹⁰⁰ For their immediate career plans, 13% of the Fellows at time 1 intended to work in the public interest sector (including both public interest organizations and criminal defense work), but 31% had these plans at time 2.¹⁰¹ Twenty percent reported changing from non-public interest career plans to public interest ones.¹⁰² Using NALP's expanded definition of "public service" work (which includes military and other government jobs, and judicial clerkships, as well as public interest positions), a larger percentage of Fellows maintained their public service career plans and changed toward public service plans.¹⁰³ As shown in Table 6, 46% of Fellows at time 1 intended to work in the public service sector immediately after graduation.¹⁰⁴ At time 2, this number had increased to 68% percent.¹⁰⁵ This percentage includes 26% of Fellows who changed from non-public service to public service career plans.¹⁰⁶

A similar trend is observed with regard to the Fellows' long-term career plans. At time 1, 18% of the Fellows planned to work in the public interest sector in 5 to 10 years.¹⁰⁷ By time 2, 26% reported these long-term plans.¹⁰⁸ As with their short-term plans, slightly more Fellows had long-term plans to work in the public service sector at time 2 than at time 1 (51% and 59% respectively).¹⁰⁹

Our study also explored the reasons the Fellows attended law school and how those reasons might be connected to the Fellows' plans to pursue a public interest career. Tables 8 and 9 provide contingency table analyses that compare reasons for attending law school by changes in career plans for both public interest careers and public service careers.¹¹⁰ Two points

100. See *infra* Table 5, *Changes in Public Interest Career Plans from Time 1 to Time 2*.

101. This definition of "public interest" tracks the NALP definition. See NALP 2011 REPORT, *supra* note 2, at 3 (defining the difference between "public interest" and "public service" jobs); see also *infra* Table 4, *Frequencies for Public Interest Career Plans at Time 1 and Time 2*.

102. See *infra* Table 5, *Changes in Public Interest Career Plans from Time 1 to Time 2*.

103. See *infra* Table 4, *Frequencies for Public Interest Career Plans at Time 1 and Time 2*.

104. See *infra* Table 6, *Frequencies for Public Service Career Plans at Time 1 and Time 2*.

105. *Id.*

106. See *infra* Table 7, *Changes in Public Service Career Plans from Time 1 to Time 2*.

107. See *infra* Table 4, *Frequencies for Public Interest Career Plans at Time 1 and Time 2*.

108. *Id.*

109. See *infra* Table 7, *Changes in Public Service Career Plans from Time 1 to Time 2*.

110. See *infra* Table 8, *Changes in Public Interest Career Plans from Time 1 to Time 2 by Reason for Attending Law School*; see also Table 9, *Changes in Public*

are of particular interest when looking at these tables. The first point is that the vast majority of Fellows who reported coming to law school to “help people” or to “make a difference” do not report wanting to have a public interest job in the short or long term at either time 1 or time 2.¹¹¹ Over four-fifths of the Fellows who reported a desire to help people or to make a difference indicated that they wanted a non-public interest career at both time 1 and time 2.¹¹² This finding questions whether drift is occurring during law school if these students did not express interest in pursuing a public interest career when they started law school. In essence, there was nothing from which to drift. This pattern is not as pronounced with regard to the more broadly-defined public service career option.¹¹³ A related observation is that a higher percentage of Fellows who came to law school due to an interest in legal issues or other reasons (rather than a desire to “help people” or “make a difference”) report plans for a public interest career as compared to Fellows with arguably more public interest oriented reasons for attending law school.¹¹⁴

The second point of interest is the limited drift observed among those Fellows interested in public interest or service careers. Looking across all reasons for attending law school, a fairly small percentage of Fellows demonstrate drifting as measured by changes from plans to pursue a public interest (or service) career to plans to pursue a non-public interest (or service) job, especially with regard to their immediate career plans.¹¹⁵ These findings indicate both that more Fellows intended to pursue public interest or public service careers after the Fellowship year than before it, but also that a substantial proportion of Fellows did not report an initial interest in pursuing a public interest or public service career and thus would not be subject to drifting.

III. DISCUSSION

The existing literature on public interest drift indicates that, in general, law students disengage from public interest ideals over the course of law school and that this disengagement may be due, in part, to the traditional

Service Career Plans from Time 1 to Time 2 by Reason for Attending Law School.

111. *See infra* Table 8, *Changes in Public Interest Career Plans from Time 1 to Time 2 by Reason for Attending Law School.*

112. *Id.*

113. *See infra* Table 6, *Frequencies for Public Service Career Plans at Time 1 and Time 2* (finding 26% of Fellows noted a non-public service immediate career plan at time 1 and 21% noted an immediate, non-public service career plan at time 2).

114. *See infra* Table 8, *Changes in Public Interest Career Plans from Time 1 to Time 2 by Reason for Attending Law School.*

115. *See id.*; *infra* Table 9, *Changes in Public Service Career Plans from Time 1 to Time 2 by Reason for Attending Law School.*

law school curriculum and pedagogy and their effects on law students' attitudes and confidence levels.¹¹⁶ Because over half of the Fellows came to law school with public interest ideals, and a significant portion participated in the Marshall-Brennan Project out of a desire to work with underserved populations, the Fellows provide an ideal population for studying drift.¹¹⁷ If the Fellows' changes in attitudes and career plans followed the patterns seen in previous studies of law students, even these civic-minded students should have experienced a disengagement from these public interest oriented ideals over the course of the Fellowship year. Instead, the results are strikingly different; the Fellows gained confidence and seemingly strengthened their commitments to pursuing public interest and public service work.

It must be noted, of course, that our conclusions need to be tempered by the fact that we studied a fairly small group of students, and we do not have data regarding the jobs the Fellows actually took upon graduation. That being said, several initial observations can be made. First, students participating in the Marshall-Brennan Project do not seem to have experienced the same drops in confidence levels that have been so well-documented among larger law school populations. In fact, the Fellows reported being *more* confident in their academic abilities at the close of the Fellowship year than they did at the beginning of the year.¹¹⁸ If, as some scholars have posited, “[r]esignation and insecurity resulting from the trauma of the law school experience are . . . the culprits for decreased public interest commitments,”¹¹⁹ the Fellows do not seem to be falling prey to these pressures.¹²⁰ Indeed, as discussed *supra*, the percentage of Fellows anticipating embarking on public interest or public service careers—both in terms of immediate career goals and longer term career goals—increased over the course of the Fellowship year.¹²¹ This data provides at least some limited support for a “Marshall-Brennan effect”—the idea that participation in the Marshall-Brennan Project may provide the subcultural support that

116. See *supra* notes 29-46 and accompanying text (noting that the traditional law school environment greatly contributes to students drift away from public interest law, despite their goals when entering law school).

117. See *infra* Table 1, *Frequencies and Mean for Selected Demographics and Law School Characteristics* (finding 54% of Fellows cited a desire to help people or to make a difference as their reason for attending law school and 41% of Fellows desired to work with underserved populations).

118. See *infra* Table 2, *Frequencies for Law School Attitudes at Time 1 and Time 2*.

119. Desmond-Harris, *supra* note 15, at 348 (citing *Making Docile Lawyers*, *supra* note 46).

120. See *infra* Table 2, *Frequencies for Law School Attitudes at Time 1 and Time 2*.

121. See *infra* Table 4, *Frequencies for Public Interest Career Plans at Time 1 and Time 2* (increasing from 13% to 31% between Time 1 and Time 2); Table 6, *Frequencies for Public Service Career Plans at Time 1 and Time 2* (changing from 41% at Time 1 to 68% at Time 2).

acts as a bulwark against drift—or, as is seen by the increase in the number of Fellows who wanted to pursue public interest or public service work at the end of the Fellowship year, even serving to bolster or create public interest commitment.¹²²

Our findings also highlight the need to explore other markers for students who may be open to exploring public interest or service careers. Fellows who entered law school for reasons other than “helping people” or “making a difference” appeared to be more open to being drawn *toward* public interest or service careers.¹²³ This pattern may be due to an inclination toward public interest or service careers (that may not have been a primary reason for the student attending law school, but was an underlying interest that led them to apply for the Marshall-Brennan Project), or it may be that this inclination was cemented through their time in the Marshall-Brennan Project. If the latter is true, the idea of subcultural support goes beyond simply “keeping” public interest oriented students in the fold and extends to also encouraging students who may not have initially expressed a desire to pursue public interest careers, drawing them towards that type of work. Similarly, our examination of reasons for attending law school and career plans suggests caution against early identification of law students who may be prone to drift, as the vast majority of Fellows who were, arguably, public interest inclined did not want a public interest career and, so, did not drift from a public interest plan. It also suggests that law schools would do well to recruit a wide range of students into public interest oriented courses and activities (including students not initially expressing public interest career plans), as such participation may serve to strengthen or even generate public interest commitment over the course of law school.

Additional support for finding a “Marshall-Brennan effect” comes from the WCL employment data. These data indicate that nine months after graduation, only 12% of employed graduates were working in public interest jobs for both the WCL class that graduated in 2009 (the year the Fellows entered law school) and in 2010 (the year the second year Fellows were surveyed).¹²⁴ The Fellows’ intentions to pursue public interest work

122. See, e.g., *supra* note 54 and accompanying text (discussing Sandefur and Selbin’s data regarding a “clinic effect”).

123. See *infra* Table 8, *Changes in Public Interest Career Plans from Time 1 to Time 2 by Reason for Attending Law School*; Table 9, *Changes in Public Service Career Plans from Time 1 to Time 2 by Reason for Attending Law School*.

124. *WCL Employment Statistics—5 Year Overview, 2005-2009*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/career/documents/AmericanUniversityWCL2009StudentStats.pdf?rd=1> (last visited Aug. 2, 2012) (noting that of 2009 employed graduates, 43% of employed graduates were employed in the private sector, 17% in government, 10.4% in judicial clerkships, 14% in business and industry, and 12% in public interest); *WCL 2010 Class, Employed Graduates by Practice Sector*, AM. UNIV. WASH. COLL. OF LAW,

eclipse these reports. Less than a year from graduation, 31% of Fellows indicated their intent to enter into public interest work immediately upon graduation. These comparisons must be made with caution; since we measured the Fellows' intentions rather than actual jobs taken, the realities of the legal market or educational debt could still very well affect the actual career paths on which these Fellows embark. In addition, the WCL employment data do not measure initial career interests of the overall student population in order to ascertain any drift. Even with these caveats, the employment data does provide a useful context for viewing the Fellows' career plans.

Our pilot study also provides support for our hypothesis that law schools can provide "subcultural support" within the traditional law school curriculum. Many of the original drift studies looked at students' participation in student-run organizations or work with public interest organizations outside of the law school as the sources of subcultural support; for example, Stover looked at participation with the National Lawyers Guild, the Student Law Center, or a public interest organization.¹²⁵ As Engler has argued, however, stronger messages of law school support for public interest and pro bono efforts could come from incorporating public interest/service work into the traditional law school curriculum.¹²⁶ If the traditional law school environment teaches students to "value the hierarchy of a law firm over a public interest career,"¹²⁷ the message a law school sends by placing a public interest-oriented program *within* its curriculum could powerfully combat the more traditional messages encouraging work in the private sector. As Engler argues,

Understanding the law school's role in contributing to the factors that influence pro bono and public service work requires an understanding of the manner in which students learn the messages, whether intended or unintended, that law schools send students over the course of their law school career. . . . How do students learn which components of legal education are the most important as they make choices? One easy way is the hierarchy that students are likely to discern from the way law schools package legal education in the first place. Credit-bearing programs presumptively are more important than volunteer programs—if an

<http://www.wcl.american.edu/career/documents/EmploymentStatistics.pdf?rd=1> (last visited Aug. 2, 2012) (finding that 33% of employed 2010 graduates were employed in the private sector, 22% in government, 12% in clerkships, 20% in business and industry, and 12% in public interest).

125. See STOVER, *supra* note 25, at 110.

126. See Russell Engler, *From the Margins to the Core: Integrating Public Service Legal Work into the Mainstream of Legal Education*, 40 NEW ENG. L. REV. 479, 480 (2006) (writing on the factors, values, and goals that must be considered when designing a "public interest or pro bono" program in a law school).

127. See Desmond-Harris, *supra* note 15, at 346 (citing Kennedy, *supra* note 37, at 602-05).

activity were viewed as important by the law school, surely the school would award credit. . . . The more credits awarded to a course, the more important it is perceived to be. . . . If the program is purely extracurricular it is likely to be closer to the margins of the school's operation. Similarly, when a program is left largely in the hands of students, it is marginalized. If the school is playing the lead role, the higher the leaders are placed within the administrative hierarchy, the greater the program's prominence.¹²⁸

As currently structured, the Marshall-Brennan Project sends these messages of institutional support for public interest work. Though an elective course, the WCL Marshall-Brennan Project is housed within the law school curriculum, provides students with credits akin to those offered in traditional courses, and is run by full-time staff and faculty members. Indeed, the founder and director of the Project, Jamin Raskin, is a full professor and an elected member of the Maryland state legislature.¹²⁹ Additionally, the law school features the Marshall-Brennan Project prominently on the law school's website,¹³⁰ and the United States Secretary of Education, Arne Duncan, has publically lauded the Project.¹³¹ Each of these measures arguably increases the prestige and legitimacy of the Project, and raises the Project's profile—along with public interest work's profile—within the law school hierarchy.

Our pilot study thus provides initial support for the concept that law schools can play a more active role in quelling drift. Programs like the Marshall-Brennan Project—which are housed within the law school curriculum, treated as core academic classes, and touted by the institution—can provide the necessary subcultural support for students interested in pursuing public interest and service careers, and may even serve to draw students toward such careers.

128. See Engler, *supra* note 126, at 486-87 (noting messages sent by full-time faculty allocated to program and resources and funding allocated to such programs).

129. See Raskin, Jamin—*Faculty*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/faculty/raskin/> (last visited Aug. 2, 2012).

130. See *The Marshall-Brennan Constitutional Literacy Project*, AM. UNIV. WASH. COLL. OF LAW, <http://www.wcl.american.edu/marshallbrennan/> (last visited March 16, 2012).

131. See Arne Duncan, U.S. Secretary of Education, *The Next Generation of Civics Education*, Remarks at the iCivics “Educating for Democracy in a Digital Age” Conference (Mar. 29, 2011), <http://www.ed.gov/news/speeches/next-generation-civics-education>.

TABLE 1:
FREQUENCIES AND MEAN FOR SELECTED DEMOGRAPHICS AND LAW
SCHOOL CHARACTERISTICS

	Frequencies/Mean
Demographics	
<i>Sex</i>	
Female	51%
Male	49%
<i>Race</i>	
White	51%
Black	15%
Hispanic	28%
Other race	6%
<i>Age (mean)</i>	24.6 years
Law School Characteristics	
<i>Current GPA</i>	
3.7-4.0	3%
3.3-3.6	46%
3.0-3.2	33%
Below 3.0	18%
<i>Reasons for Law School</i>	
Help people/make a difference	54%
Interest in legal topic/field	21%
Other	26%
<i>Reasons for Marshall-Brennan</i>	
Work with underserved community (in law school or as a potential career)	41%
Work with adolescents (in law school or as a potential career)	18%
Explore interest in teaching	13%
Other reasons	28%
<i>Extracurricular Activities</i>	
Traditional	64%
Non-Traditional	72%
Both	49%
<i>Educational Debt</i>	
none	3%
up to \$49,000	8%

2012]

PUBLIC INTEREST 101

103

\$50,000-\$99,999	21%
\$100,000-\$149,999	5%
\$150,000-\$199,999	44%
\$200,000-\$249,999	13%
\$250,000-\$300,000	5%
over \$300,000	3%

N = 39.

TABLE 2:
FREQUENCIES FOR LAW SCHOOL ATTITUDES AT TIME 1 AND TIME 2

	Time 1	Time 2
Confidence in Academic Abilities		
Agree with statement	49%	82%
Neither agree/disagree with statement	31%	18%
Disagree with statement	21%	0%
Confidence in Oral Participation		
Agree with statement	33%	64%
Neither agree/disagree with statement	31%	26%
Disagree with statement	36%	10%
Confidence Being Good Lawyer		
Agree with statement	80%	77%
Neither agree/disagree with statement	20%	20%
Disagree with statement	0%	3%
Questioned Law School		
Agree with statement	26%	44%
Neither agree/disagree with statement	23%	23%
Disagree with statement	51%	33%

N = 39.

TABLE 3:
CHANGES IN LAW SCHOOL ATTITUDES FROM TIME 1 TO TIME 2

	Frequency
Confidence in Academic Abilities	
Confident at both time 1 to time 2	44%
More confident at time 2	38%
Less confident at time 2	10%
Other response*	8%
Confidence in Oral Participation	
Confident at both time 1 to time 2	31%
More confident at time 2	38%
Less confident at time 2	5%
Other response*	26%
Confidence Being Good Lawyer	
Confident at both time 1 to time 2	67%
More confident at time 2	10%
Less confident at time 2	13%
Other response*	10%
Questioned Law School	
Questioning at both time 1 and time 2	26%
More questioning at time 2	18%
Less questioning at time 2	15%
Other response*	41%

N = 39.

* = reported being “neutral” at both time 1 and time 2 or “disagreeing” at both times.

TABLE 4:
FREQUENCIES FOR PUBLIC INTEREST CAREER PLANS AT TIME 1 AND TIME 2

	Time 1	Time 2
Immediate Career Plans		
Public interest career	13%	31%
Non-public interest career	59%	56%
Undecided	28%	13%
Long-Range Career Plans		
Public interest career	18%	26%
Non-public interest career	69%	59%
Undecided	13%	15%

N = 39.

2012]

PUBLIC INTEREST 101

105

TABLE 5:
CHANGES IN PUBLIC INTEREST CAREER PLANS FROM TIME 1 TO TIME 2

	Frequency
Immediate Plans	
Public interest plans at both time 1 and time 2	10%
Change to public interest plans at time 2	20%
Change from public interest plans at time 2	3%
Non-public interest plans at both time 1 and time 2	67%
Long-Term Plans	
Public interest plans at both time 1 and time 2	8%
Change to public interest plans at time 2	18%
Change from public interest plans at time 2	10%
Non-public interest plans at both time 1 and time 2	64%

N = 39.

TABLE 6:
FREQUENCIES FOR PUBLIC SERVICE CAREER PLANS AT TIME 1 AND TIME 2

	Time 1	Time 2
Immediate Career Plans		
Public service career	46%	68%
Non-public service career	26%	21%
Undecided	28%	13%
Long-Range Career Plans		
Public service career	51%	59%
Non-public service career	36%	26%
Undecided	13%	15%

N = 39.

TABLE 7:
CHANGES IN PUBLIC SERVICE CAREER PLANS FROM TIME 1 TO TIME 2

	Frequency
Immediate Plans	
Public service plans at both time 1 and time 2	41%
Change to public service plans at time 2	26%
Change from public service plans at time 2	5%
Non-public service plans at both time 1 and time 2	28%
Long-Term Plans	
Public service plans at both time 1 and time 2	41%
Change to public service plans at time 2	18%
Change from public service plans at time 2	10%
Non-public service plans at both time 1 and time 2	31%

N = 39.

2012]

PUBLIC INTEREST 101

107

TABLE 8:
CHANGES IN PUBLIC INTEREST CAREER PLANS FROM TIME 1 TO TIME 2 BY
REASON FOR ATTENDING LAW SCHOOL

Career Plans	Reason for Attending Law School		
	<i>Help people or make a difference</i>	<i>Interest in legal issues</i>	<i>Other</i>
<i>Immediate Plans</i>			
Public interest plans at both time 1 and time 2	2 (9%)	1 (12%)	1 (10%)
Change to public interest plans at time 2	1 (5%)	4 (50%)	3 (30%)
Change from public interest plans at time 2	1 (5%)	0 (0%)	0 (0%)
Non-public interest plans at both time 1 and time 2	17 (81%)	3 (38%)	6 (60%)
Total	21	8	10
<i>Long-Term Plans</i>			
Public interest plans at both time 1 and time 2	1 (5%)	0 (0%)	2 (20%)
Change to public interest plans at time 2	2 (10%)	1 (13%)	2 (20%)
Change from public interest plans at time 2	1 (5%)	3 (38%)	2 (20%)
Non-public interest plans at both time 1 and time 2	17 (81%)	4 (50%)	4 (40%)
Total	21	8	10

Percentages might not add to 100% due to rounding.

TABLE 9:
CHANGES IN PUBLIC SERVICE CAREER PLANS FROM TIME 1 TO TIME 2 BY
REASON FOR ATTENDING LAW SCHOOL

Career Plans	Reason for Attending Law School		
	<i>Help people or make a difference</i>	<i>Interest in legal issues</i>	<i>Other</i>
<i>Immediate Plans</i>			
Public service plans at both time 1 and time 2	10 (48%)	4 (50%)	2 (20%)
Change to public service plans at time 2	4 (19%)	2 (25%)	4 (40%)
Change from public service plans at time 2	2 (10%)	0 (0%)	0 (0%)
Non-public service plans at both time 1 and time 2	5 (24%)	2 (25%)	4 (40%)
Total	21	8	10
<i>Long-Term Plans</i>			
Public service plans at both time 1 and time 2	8 (38%)	4 (50%)	4 (40%)
Change to public service plans at time 2	3 (14%)	2 (25%)	2 (20%)
Change from public service plans at time 2	2 (10%)	1 (13%)	1 (10%)
Non-public service plans at both time 1 and time 2	8 (38%)	1 (13%)	3 (30%)
Total	21	8	10

Percentages might not add to 100% due to rounding.