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Katherine S, Broderick

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# THE STATUS OF PART-TIME EVENING PROGRAMS?: TRANSCRIPT OF PROCEEDINGS

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Katherine S. Broderick\*

DEAN BRODERICK: In 2007 to 2008, our law school faculty at the University of District of Columbia unanimously decided to start a part-time program. Everyone understands that it's a ton of hard work and that it will stretch human and financial resources. To understand why we made this decision I wanted to give you a little snapshot of who UDC is, and what we are like. We are a one-of-a-kind public, urban land grant, historically Black law school dedicated to training public interest, public service, and public policy lawyers.

Our statutory mission is to recruit and enroll students from racial, ethnic, and other such backgrounds traditionally unrepresented at the bar. We are half students of color. Thirty percent of our students are African-American. We have the sixth highest percentage of African-American students in the nation. Sixty percent of our students are women, and the average age is twenty-eight. Many are second-career students; they are raising families and they are paying mortgages.

The second part of our statutory mission is to represent the legal needs of low income individuals in D.C. through an extensive program of clinical legal education. Last year our students provided 85,000 hours of legal services. Our law school experience begins with a course called Law and Social Justice. Two weeks before classes begin, students come in and they meet lawyers who represent the homeless. They debate the injustices that they've experienced. They talk about immigration policy. The idea is that we want them to know there is an end game to this law school—social justice. Law school is not just about business courses.

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In their first year, our students are required to participate in forty hours of community service, but many do far, far more. We also fund a \$3,000 stipend for everyone who wants to do a full-time summer public interest, public service, or public policy job. Many start their forty hours at the public defender's office and work far more than the required hours all through the summer. Some do their community service at the public defender and realize that they actually want to do ACLU work, or something completely different. And so they do something else for the summer.

Every second-year student is required to complete a 350-hour clinic for seven credits. Every third-year student is required to do another 350-hour clinic for seven credits. Thus, by graduation students must meet a 740-hour minimum requirement; the biggest commitment to clinical legal education of any school. Our graduates know how to practice law, and when they get out they are ready.

We were ranked thirteenth by *US News & World Report* in 2008 for our clinical programs, which is tied with Stanford and ahead of Columbia and Berkeley and some other schools with better resources. We are pretty proud of this, and we are going to move up. Last year, fifty-six percent of our graduates went into public service, public interest, and public policy jobs. Furthermore, we provide a sound program of legal education. Our first time bar passage rate has risen to eighty-two percent this year, which for a new school just getting full accreditation three years ago, is great.

Why a part-time program? Well, it will allow us to more fully meet our mission. We want to enroll more students from D.C., more non-traditional students, and more people of color from communities historically denied access to a legal education because of financial reasons, family responsibilities, and other such obstacles. A part-time program also aids in addressing a huge unmet legal need situation in D.C. I'm on the Access to Justice Commission. I am President and have served on the Board of the ACLU of the National Capitol Area. I am on the D.C. Applesseed Board. I see legal needs go unaddressed all day, every day. Ninety-seven percent of the tenants in superior court are pro se. Ninety-eight percent of individuals in domestic violence cases are pro se. Ninety-eight percent of paternity and child support are also pro se. Seventy-seven percent in divorce and custody are pro se.<sup>1</sup> This is not the way it should be. Our part-time students will provide a minimum of 36,000 hours serving people who can't otherwise afford a lawyer.

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1. D.C. ACCESS TO JUSTICE COMM'N, JUSTICE FOR ALL? AN EXAMINATION OF THE CIVIL LEGAL NEEDS OF THE DISTRICT OF COLUMBIA'S LOW-INCOME COMMUNITY 83 (2008), available at [www.dcccesstojustice.org/files/CivilLegalNeedsReport.pdf](http://www.dcccesstojustice.org/files/CivilLegalNeedsReport.pdf).

So what's our plan? When we unanimously decided to start the part-time program, I called the ABA because we did not want to reinvent the wheel. We learned that Hawaii has just started a part-time program and has exactly the same number of faculty and students. Much of Hawaii's plan works well for UDC.

The first year of curriculum is delivered over two years. In the first year, the incoming students take three first-year legal courses. The following year, three different courses are offered. This means that the School of Law only has to offer those core courses once every other year. I thought this was a brilliant idea for our small faculty. We got a great consultant from George Washington, and we started brainstorming with the faculty and administration. In our very first meeting we came up with our major operating principles. First, student profiles in the part-time and full-time programs will be the same including test scores, grades, demographics, and goals. We are still looking for public interest lawyers and are still going to make sure we have the demographics that meet our mission.

Second, the quality of the academic experience will be the same: courses and clients. And third, part-time students will participate fully in the law school community. Thus they will have access to all student services, educational opportunities, and full integration into the student body organizations and activities.

Teams of law faculty and administration put together a four-year curriculum beginning with Law and Social Justice, plans for student services programs and activities, and a revenue and expense budget. And we applied for approval to start the part-time program to the American Bar Association. Their decision is expected in April. We hope to open in August 2009.

We think some of characteristics of the District of Columbia and some of the particular characteristics of our law school will help make the part-time program a success. Four schools in D.C. have part-time programs: Georgetown, George Washington, American, and Catholic. Three of those are among the nine largest law schools in the country. They receive about 10,000 to 12,000 applications a year, and are turning away thousands of fabulously qualified people. UDC enrolls one of nine African-American students in the country. D.C. has the second highest number of legal jobs of any city, and is fourth among the states. It's actually our business in D.C.—we do law.

So why will they come to UDC? Our tuition is \$7,350 if you're a D.C. resident, and \$14,700 if you're an out-of-state student. We also have very generous merit and financial aid, among the most generous in the country. The student body is small, welcoming, and amazingly diverse. We have a

very accessible faculty with a twelve-to-one student-to-faculty ratio. We have a unique and focused curriculum consisting of clinics as well as community service and courses on such issues as systems change and Katrina. For example, as part of the Katrina course practicum, forty of us went down to New Orleans and worked for a week. We walked thirty-nine people out of jail who had already served more time than they would have had they been convicted and given the maximum sentence. Good days. It was really fun to spend time breaking people out on spring break. Finally, a major attraction to our school is the location: Washington, D.C., in a fancy neighborhood right on the Metro.

Just yesterday I was told that our applicant pool is up thirty-two percent. I'm hoping we hang on to that. We will get more diverse students and we will get more students of color. In 2004, Paul Kirgis from Saint John's wrote a law review article in the *Journal of Legal Education*. He reported that of eighty part-time programs, forty-seven, or almost sixty percent, have higher African-American participation in the part-time program,<sup>2</sup> which I hope is telling. Almost all of those were in large urban markets with substantial African-American populations, as are we, so we are hopeful.

The part-time clinical program has taken a lot of thought. We know that the students' needs and schedules vary. Some are going to work full-time during the day and have very inflexible schedules. They need clinics in which they can work at night and on weekends. Some students will be part-time, working parents who have some flexibility during the day. And others may be able to take a clinic during the day. We looked at our current clinics, and they fall into three categories. Some can readily accommodate evenings and weekends. We have a Low-Income Tax Clinic, a Community and Development Clinic, and a Government Accountability Clinic, in which we represent whistle-blowers who blow the whistle on fraud, waste, and mismanagement.

In the Low-Income Taxpayer Clinic we represent our newest neighbors, immigrants, who have claimed an income tax credit and somehow fallen afoul of the seventy pages of IRS regulations. And so the government prosecutes them. Luckily, the government also funds legal clinics allowing us to represent the people the government is prosecuting. It's very odd. But tax clinics are great evening clinics because the work can all be completed nights and weekends.

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2. Paul F. Kirgis, *Race, Rankings, and the Part-Time Free Pass*, 54 J. LEGAL EDUC. 395, 403 (2004).

In the Community Development Clinic, we represent low-income tenants as well as organizations that help them purchase and renovate their buildings. It's transactional work, and it's business planning. Community groups also happen to meet on nights and weekends. These clinics are really going to work for part-time students. And then for the people who can do some clinical work during the day we will offer our Housing and Consumer Clinic and our Juvenile and Special Education Clinic. Some students will be able to take these clinics in which they will have an occasional daytime hearing. A lot of the work can also take place at night.

Finally, a couple of our clinics will have to be re-thought. We have a Legislation Clinic in which we cleverly place a student in every D.C. Council member's office. As a public school, we need to have our ear to the ground. Students write progressive legislation. We also have an HIV Family Law Clinic in which our students represent people affected and infected with the HIV virus. This clinic requires a lot of time in court during the day. Changes can easily be made. Students can work on progressive legislation in-house nights and weekends. Students do not have to actually work in the Council member's office. Students can write wills and they can handle other permanency planning for people with HIV in the evenings, so there are things part-time students can do in these clinic as well. Peter Joy's article, *A Clinical Program for Evening Programs*, discussed a study he conducted in November 2004, almost 2005. It's unpublished, but he identified the part-time programs that have clinical programs, and there are about twenty different kinds of clinics such as low-income taxpayer, alternative dispute resolution, mediation, appellate, elder law, civil, and family.<sup>3</sup> Peter's scholarship confirms that our thinking about part-time program clinics is in the ballpark. I think that the program is going to work very well.

I'm going to close with what's next for us. Our vision is that we should be located downtown, close to the courts, in a green building of course, where our clients have one-stop shopping, and where our students can walk across the courtyard to their community service and summer public interest jobs instead of endlessly riding the Metro. We want to colocate with Neighborhood Legal Services, Legal Aid, the Whitman-Walker Clinic for people with AIDS, and Legal Counsel for the Elderly. Ultimately, we plan to have 650 students, 450 in the day program and 200 total, or fifty per year, in the part-time program. We plan to start with

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3. Peter Joy, *A Clinical Program for Evening Programs* (2004) (unpublished manuscript, on file with author).

twenty-five students in 2009. We are focused on ending poverty and inequality, so that's what we are going to do. And that's the end.

MODERATOR CARRIE MENKEL-MEADOW: Thank you. Great presentation from all of our panelists. Do we have any questions from the audience?

CHARLES FAIRCHILD: Dean Broderick, your school is in my hometown. In addition to evening students who work full time and go to school at night, I imagine most of them commute to where your school is located because your target market for students is in other neighborhoods. How many hours of public service in the clinics do you think people can do, and also be able to do, with the test scores and demographics staying the same as the day program? Will they be able to commit comparable amounts of public service hours?

DEAN BRODERICK: It's a great question. Yes, we think so. But when we come back in five years we may know something different. We anticipate that our part-time students will go at least one summer, probably two, if they want to graduate in four years. We anticipate schedules working so that they will do a clinic maybe in a summer, and that will be the only thing they take in the evening to get seven credits. As we've worked it out, we think they can do it, particularly because a lot of the work can be done on the weekends. And so while you're in class in the evening, you can do a lot of the clinical work on the weekends. So that's our plan.

MALE SPEAKER: Dean Broderick, I'm from Campbell Law School. How do you see your faculty expanding in size? Louisville has a very lean faculty, just as we do. I don't know what your current faculty size is, but do you expect a ten percent, or twenty percent increase?

DEAN BRODERICK: We definitely plan to add two or three faculty members. We have twenty-two full-time faculty members, and we also have a number of new grant-funded clinicians. This year, funding for grants being what it is, I've convinced our president to let me turn those clinical instructor positions into full-time hard money positions. We are really looking at starting an LL.M. program to bring clinical instructors in for two years to get an LL.M. in teaching clinical legal education. I got an M.A.T. in teaching clinical legal education at Antioch back in the day. It was heaven. UDC LL.M. students are not going to have to take Law and the Lumpen Proletariat as I did, but they are going to get a good education.

So we think it's going to work. We think we'll go up two or three full-time permanent faculty as well.

MALE SPEAKER: I'm also from D.C. It has been in the news that UDC undergraduate tuition is going up. Does that mean your tuition is going to be raised too?

DEAN BRODERICK: The President did not include us. He emailed me right before going public with the massive tuition increase. By the way, the students ultimately convinced the President to raise tuition over two years rather than all at once. So tuition for the undergrads will be \$5,400 in 2009-2010. The problem with the undergraduate population at UDC is that there's just no culture of financial aid. There isn't any instruction about it. There's no counseling about it, but all of that is going to change radically. The next closest tuition is \$10,000 at Southeastern University. So UDC will see a 100% increase, but tuition is still thousands and thousands of dollars less than any other university in the region.

MODERATOR CARRIE MENKEL-MEADOW: What is the role of adjuncts in these programs? In the mid-eighties I was on the ABA accreditation committee for three or five years. I was very concerned about the use of adjuncts, so I was one of the people that sat on that committee and sent letters to deans to account for the fact that they have a disproportionate number of adjuncts teaching. The ABA is mostly concerned with first-year courses, but there's also a ratio of total courses.

Since having gone to Georgetown, I've changed my views 180 degrees. One of things that I think Georgetown offers and so does UDC as you've heard, is talent, the legal talent in the District of Columbia is just enormous. So when I advise students, I tell them I don't have a ratio. I don't say make half of your courses from academics like me—although I am an engaged person in the world, so I don't know where I fit—and half of your courses from adjuncts. It's a very rich way to get an education, and I would say to any student—full-time or part-time—to be sure to take a mixture of courses with available, able theoreticians and people who write the new laws and new theories about law and legal institutions, but also from the people that practice in particular specialties. So what is the role of adjuncts in these programs? How constricted do you feel by accreditation standards? Would you do it differently at all if you didn't have to report those numbers to people, and what do you think about it in general?

DEAN MITCHELL BAILIN: That's a great question. At Georgetown we have almost 400 adjuncts, about 250 who teach periodically in the J.D. program and another 170 or so, who teach in the LL.M. programs and tax and other fields. We have a very large group of extraordinarily talented practitioners, judges, and the like from D.C. The benefits are obvious. It's always been true, but post the Carnegie report it is exceptionally important for us to get top talent in teaching the practice of law, the tactics of law, the kinds of things that you think about in working with clients. It's not that a full-time faculty doesn't do that; they do it extraordinarily well. It's just that there are many, many very good people in the community who become full-time faculty later who can add at a school that has 400 and some classes in the curriculum for J.D. students over the course of a couple of years. We have the luxury of being able to have highly specialized courses, and so we can have highly specialized practitioners who benefit our students that way. We also can just have people who are wonderful contacts and connections for our students in a whole range of fields from public interest through the judiciary.

I used to be on many academic planning sides of the institution. The last person that I negotiated with to do a constitutional advocacy course eventually had to drop the course because he got appointed to the Chief Justice position of the United States Supreme Court, so those are the kinds of benefits the program has. All that said, we have always got our eye on the number, sixty-seven percent. We are fortunate to be able use the content hours for students as the definition for the part-time program of whether we meet our ABA requirements. On average, we haven't had a problem with that because we have such a good partnership with our full-time faculty to teach in the evening program. Far more full-time faculty members teach foundational courses in the part-time program. Far more adjuncts teach the tactical skills-based, experiential-learning type courses. Lots of exceptions.

PROFESSOR TIMOTHY HALL: I echo almost all of that. Or I would echo all of that except for the Chief Justice part, although we do have someone that works for the Chief Justice in the Supreme Court teaching a very experiential hands-on class in constitutional litigation, which has been very nice. They add such a richness. And one of the things that I'm happiest about in Louisville is the relationship between the bar and the law school, in that so many practitioners adopt the law school and come in and give of their time as adjuncts, as mentors in professionalism programs—some of which are resented mightily by the students but which are also needed by the students. “How dare you teach me how to dress for my

interviews!” “Because we know you will show up in flip-flops if we don’t tell you!” I believe we are actually harder on ourselves in terms of certain numbers and in terms of how we use adjuncts or ABA requirements, and we have very few exceptions—exceptions that are forced upon us by circumstances. We teach all first-year courses, of course, but also all of the core bar courses. We don’t bring in adjuncts for any of those, with the one exception that we have brought in adjuncts more often than anything else for the core criminal procedure. And I confess it’s a natural fit. For patent law, that’s great. Med-malpractice, great. I’m a health law person. I could teach it, but I would rather have our adjunct who does it every day teach it and knows the tactics and knows litigation. I think it’s a fabulous resource. And it’s for part-time, but so what. All the students take advantage of that. And if my malpractice guy can’t come until 7:00 or 8:00 at night, then that’s when I’m scheduling that course. And I will tell you the students who want that will come at that time, or 8:00 in the morning, or Friday—it doesn’t matter.

DEAN BRODERICK: We have the former general counsel to the D.C. Council teaching our legislation clinic. She drafted the legislation for the Council and she reviewed all the legislation. We have the Chief Judge of the Special Tax Litigation Court who calls us up to tell us about the existence of funding from the IRS for tax clinics. He also hires our students as his law clerks. The benefits go on and on. It’s just magic. I think that the ABA rules are just exactly what they should be.

DEAN BRYANT GARTH: I think everybody—and for good reasons—talked about how they wanted to have exactly the same standard for their full-time as part-time, but is there a reason why people who might be more challenged by a full-time program, or have lesser credentials, ought not be using a part-time day program? That is, something to help get them through a particular law school, someone who might have more difficulty and you want to encourage them for diversity or another reason?

PROFESSOR TIMOTHY HALL: It’s not just the numbers. It’s not just the LSAT, and it’s not just the GPA. I had a conversation with a contracts colleague of mine about a student, and it turns out he is a part-time student. He was a police officer. And my colleague said he’s very bright. He clearly would make a great lawyer. But he doesn’t have time. And he was part-time already. We are similar to Georgetown in that we don’t split the first year into two years. They only get a couple of classes off to go part-time. That’s one of our goals as well, by making this far

more flexible. You can't come in and take one class at a time for twenty years, but nonetheless, I think that's exactly right, you want students who will, at the end of day, be good lawyers and go out and do good. We're very public-interest oriented as well. You don't want those students to be unnecessarily, artificially limited by the rules of the institution.

I absolutely believe there are reasons to counsel people, even after they are admitted. I counsel people all the time after they are admitted about how to structure law school around their other life obligations so that they can succeed at both. So I think, absolutely, there are reasons for people to choose part-time, or slow part-time, or fast part-time, or full-time, or two years.

DEAN MITCHELL BAILIN: There are some personal benefits to a lot of individual students to go through at a slower pace—it's more nurturing. At the same time there's classic trade-offs, even in a three-year program; it's hard to get third-year, full-time students to remain engaged, to keep the stamina going, to keep the attention focused. And so a student may need more time intellectually as well as personally. But at the same time, I worry about all of those fourth-year issues for those students.

DEAN BRODERICK: If Georgetown wanted to take students with drastically lower LSAT scores, like all the way down to 163 or 160, it would continue to survive. At UDC, we are aware that the average African-American LSAT score is 144. The average African-American matriculate's LSAT score is 150 to 151. Half of the takers are below 144. That's why 144 is our floor. We want at least half of the African-American takers to be eligible to apply. About twenty-five percent of our class is between 144 and 149. I'm not saying that's exactly what it's going to be for day and evening, but that's exactly where it should be because some of those students turn out to be our very brightest kids. Many are on Law Review. They do a phenomenal job. It's stunning what they do. My mother was a literature major at Radcliffe. I had a huge advantage. Most of our students, ninety-eight percent of whom are eligible for federal financial aid, are the first in their family to go to college, much less law school. So it's a completely different experience for these kids. They've achieved enormously. Those numbers don't mean the same thing that they would mean for a privileged kid who scores a 144.