

UNIVERSITY  
OF MIAMI



# Health & Elder Law Clinic

## “HAITIAN TPS PROJECT”

*Law Clinics and Students as First Responders*

### Clinical Legal Education Association

Award Nomination for Excellence in a  
Public Interest Case or Project

April 9, 2010



EDUCATING  
TOMORROW'S  
LAWYERS®

This resource was downloaded from <http://etl.du.edu>



INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM

# HAITIAN TPS PROJECT SUMMARY

The University of Miami Health & Elder Law Clinic serves impoverished members of the Miami-Dade, Florida community in the core areas of Social Security, public benefits, immigration, and permanency planning and some related policy advocacy.

On January 12, 2010, when a catastrophic 7.0 magnitude earthquake struck Haiti, Miami, home to the largest Haitian-immigrant population in the U.S. was the closest major city to respond to the disaster. Haiti is the most impoverished nation in the Western hemisphere and the Haitian-immigrant community in Miami, FL is one of the poorest and most underrepresented populations.

The University of Miami Miller School of Medicine responded immediately by sending physicians and medical students to Haiti; attorneys and law students were frustrated by their relative inability to respond. When the federal government made temporary protected status (TPS) available to eligible Haitian immigrants residing in the U.S. before the earthquake, the Clinic faculty, supervising attorneys and law students became first responders. We conducted a thorough TPS training on January 20, began an initial grassroots outreach effort in the Little Haiti community of Miami, Florida and conducted our first TPS drive on January 22. The initial effort was a complete success resulting in the submission of 65 TPS applications. The Clinic concluded that it had the capacity to provide quality, competent legal representation to a far greater number of TPS applicants.

The historic Haitian TPS Project alternative spring break program was born. The Clinic hosted visiting students from law schools across the U.S. to do TPS cases. School of Law participants included: New England; University of San Francisco; Santa Clara University; University of Memphis; University of Miami; Stanford University; and UC Berkeley Boalt Hall. The alternative spring break program lasted for the entire month of March and included 52 visiting law students.

Throughout the TPS efforts, the Clinic developed a comprehensive TPS training and processing model that may be universally deployed at any legal services institution or law school clinic. Ultimately, the Clinic's TPS Project resulted in the successful completion of more than 150 TPS applications and involved over 130 law students.

The University of Miami School of Law is proud of



its students, faculty and staff for their ongoing commitment to providing legal representation to the underserved community. The students and attorneys of the Clinic volunteered for this massive undertaking in addition their existing high-volume caseload and have demonstrated tremendous dedication to serving the low income, underrepresented Haitian community. Thus, it is with great pleasure that we nominate the Health & Elder Law Clinic for the Clinical Legal Education Association Award for Excellence in a Public Interest Case or Project.

**JoNel Newman**  
Director  
Health & Elder Law Clinic

**Melissa Swain**  
Supervising Attorney

**Bernard Perlmutter**  
Director  
Children & Youth Law Clinic

**Olga Porven**  
Supervising Attorney

**Becky Sharpless**  
Director  
Immigration Clinic





## The Clinic's Haitian TPS Project Both Effectively Called Attention to and Significantly Redressed a High Priority Need of the Low-Income Haitian Community in Miami

On January 12, 2010, a devastating 7.0-magnitude earthquake hit Haiti leaving over 200,000 dead and millions more displaced from their homes. The earthquake was centered 10 miles southwest of Haiti's capital Port-au-Prince and could be felt in eastern Cuba. Houses and buildings instantly crumbled to the ground. The poorest nation in the Western Hemisphere was left without electricity and water as the country's already inadequate infrastructure was completely destroyed.

The physical destruction wrought by the quake rapidly sent emotional shock waves towards the shores of South Florida, as a result of Miami's distinct connection to the island. The Haitian community in Miami is dynamic and continues to remain the largest in the country. According to the 2000 U.S. Census, there are approximately 750,000 Haitians living in the United States and a presently estimated 350,000 in South Florida with a third of that population residing in Miami-Dade County.

Unlike Cubans, who are automatically eligible for humanitarian parole, Haitians have not traditionally enjoyed such a preferred status. In fact, low-income Haitians have often been treated very poorly by U.S. immigration authorities. Effective January 21, 2010, the Secretary of the Department of Homeland Security designated Haiti for TPS for a period of 18 months. Undocumented Haitian nationals, who have resided in the U.S. prior to the earthquake on January 12, are eligible to apply for TPS, but they only have 6 months to do so. United States Citizenship and Immigration Services (USCIS) estimates that approximately 200,000 Haitians living in the U.S. would be eligible for TPS.

TPS is granted to foreign nationals of countries that have experienced temporary negative conditions, such as national disasters. In order to be eligible for TPS, applicants must: (1) be a national of Haiti, or a person without nationality who last habitually resided in Haiti; (2) have continuously resided in the U.S. since January 12, 2010. Applicants who have either two misdemeanors or one

felony are ineligible and may be placed in removal proceedings by USCIS. TPS allows for beneficiaries to remain temporarily in the U.S. with work authorization and send money to their family in Haiti.

The Health and Elder Law Clinic became first responders and on January 18 made a decision to create the Haitian TPS Project. The Clinic anticipated conducting a one-day TPS drive. However, after news broke about our efforts to assist Haitians, the Clinic was flooded with emails from other law schools who were interested in joining us for their spring break. Suddenly, our idea about one TPS drive turned into training over 130 law students from Miami, Santa Clara, New England, Memphis, San Francisco, Stanford and Berkeley and representing over 150 Haitian TPS applicants.





# The Project, Which Consisted of Comprehensive Legal and Professional Responsibility Training Included Establishing a Lasting Attorney-Client Relationship, was Carried Out in Conformity with the Highest Standards of Professional Conduct and Competence

The Clinic’s TPS Project was administered in conformity with the highest standards of professional conduct and competence. All attorney and law student volunteers were thoroughly trained on TPS law and professional responsibility prior to beginning field work. Through a partnership with expert local immigration practitioners, the Clinic’s director, supervising attorneys as well as student interns and fellows were trained on the specifics of TPS, how to fill out the applications and were given practice pointers. The training was recorded, made into a podcast and distributed to other immigration practitioners.

We planned our first TPS drive, at the community hospital in Miami in three days and had no idea what kind of response we would get. It was challenging to train everyone, secure the location, the student volunteers, Creole translators as well as prepare all the necessary intake materials and application packets.

In order to spread the word about our TPS drive we reached out to our medical-legal partnership with UM Jackson Memorial Hospital through social workers that service the low-income population. We drafted a flyer in both Haitian Creole and English and circulated

it to all our social workers and medical partners. Our first priority was to serve pre-existing hospital patients and members of their family. However, as our project continued to grow through the month of March we eventually opened our intake up to any members of the Haitian community.

The volunteer response that we received was remarkable. Many Miami law students were eager to get involved and liked the fact that this gave them the opportunity to help individual clients and really make a difference in someone’s life. Over 60 law student volunteers showed up to participate in the TPS drive. After spending ten hours in the hospital doing intake, 65 Haitian TPS seekers filled out applications.

The Clinic was one of the first organizations to process and mail applications for Haitian TPS. The Clinic provided representation on each case free of charge, our attorneys were signing G-28 appointment of representative forms and we were filling out fee waivers for clients. The total cost for a TPS application varies depending on age. However, for applicants between the ages of 14 and 65, the total fee is \$470. Accordingly, submitting fee waivers enables people to send

money straight to their families in Haiti.

It was significant that the Clinic’s director and supervising attorneys were signing G-28 appointment of representative forms because this assured that the Haitians were not just getting legal advice and submitting their applications pro se, but that our Clinic would represent them through



Left: University of Miami School of Law Alternative Spring Breakers in front of a Little Haiti restaurant used as a TPS intake site.

the processing of their application. This allows the Clinic to receive and respond to correspondence from USCIS. In addition, if clients' fee waivers are denied, we receive notice and can advocate on their behalf to get them resubmitted and processed.

The Clinic's TPS project created a model for direct legal representation that was recreated for four separate weeks of alternative spring break throughout March. The Clinic's leaders came up with a one week schedule that trained law students on substance, ethics and professionalism, community outreach, intake of new clients, reviewing cases and processing and finalizing TPS applications. Clinic attorneys made sure that the spring breakers were trained not only in how to fill out TPS applications, but also that they were introduced to and understood the Model Rules that address confidentiality and attorney-client privilege issues.

**AT A GLANCE:  
HAITIAN DEMOGRAPHICS**

Haitians in Florida	233,881
Haitians in Miami-Dade	95,665
Indiv below Poverty Level	28,825
Fam below Poverty Level	6,576

*Source: U.S. Census Bureau, Census 2000*



*Left: Health & Elder Law clinic intern Kathryn Desire, 2L, performs a client intake at a restaurant in Little Haiti.*

*Below: Law students meet with TPS seekers at Chef Nicole Restaurant in Little Haiti.*





# The Case or Project Serves as an Inspiring Model for Engaging in Legal Work Under Challenging Conditions in Furtherance of the Common Good

What began as a single outreach and TPS drive quickly spiraled into a national series of alternative spring breaks from law schools across the U.S. The Clinic created a streamlined TPS processing model that was successfully applied to the Clinic students as well as a new group of visiting alternative spring break students for every week in March. This model, from TPS training to client intake to mailing the application can be universally adopted by any law school clinic to represent a high volume of low-income clients in complex legal matters.

Many law students were eager to travel to Haiti to help, but were advised that only essential personnel travel to the country of Haiti in order to protect the scarce resources needed for direct rescue efforts. As word spread about assisting Miami’s Haitian community with TPS applications, the University of Miami School of Law received support from other law schools. The wheels were quickly set in motion to accommodate visiting law students and conduct additional TPS efforts.

Health & Elder Law Clinic students were asked whether they wanted to proceed with further intake. The project could only continue with Clinic students as willing volunteers and an outpouring of support was demonstrated by the students. A number of students volunteered to serve in leadership positions while others agreed to provide considerable support to the project and the Haitian TPS Alternative Spring Break Project was born.

The goal of the Alternative Spring Break Project was to adopt the Clinic’s existing model during its initial TPS intake and duplicate the process every week thereafter. The Clinic hosted a group of visiting law students for each week in March and the weekly model included: training, outreach, TPS client intake, client follow-up, and finalization of the application by FedExing it to USCIS.

Accomplishing a uniform TPS processing model



University of San Francisco law students were provided workstation in the Clinic to process TPS cases following their case review session.

required analysis of the existing methods used in the original intake so that any known or potential flaws could be addressed. Outreach to the Haitian community proved to be the greatest obstacle. The chief concern was obtaining sufficient numbers of Haitians to apply for TPS since word was slow to spread across the community and the fees were high. Members of the Clinic honed in on a grass-roots effort in the Little Haiti neighborhood. Chef Nicole Restaurant opened in February 2010 in the heart of Little Haiti and the Clinic approached the owner offering a partnership in TPS outreach and intake. The bargain was that a limited portion of the restaurant would be dedicated to conducting TPS cases, which brought community attention and potential patrons to the restaurant. A local intake venue was now established in addition to the existing medical school intake site.



Miami’s vibrant Little Haiti neighborhood was to play a central role in TPS outreach and intake efforts.

## The Haitian TPS Weekly Model

Alternative Spring Break Week

Monday	Tuesday	Wednesday	Thursday	Friday
<ul style="list-style-type: none"><li>• TPS Training</li><li>• Outreach in Little Haiti</li></ul>	<ul style="list-style-type: none"><li>• Intake in Little Haiti and Public Hospital</li></ul>	<ul style="list-style-type: none"><li>• Morning Case Rounds</li><li>• Client Follow-Up in Field</li><li>• Evening Intake in Little Haiti</li></ul>	<ul style="list-style-type: none"><li>• Morning Case Rounds</li><li>• Client Follow-Up in Field</li><li>• Begin Processing Applications</li></ul>	<ul style="list-style-type: none"><li>• Finalize Applications</li><li>• Final Attorney Review</li><li>• Send FedEx Application</li></ul>

Every Monday, Clinic Director and Professor JoNel Newman and Supervising Attorneys Melissa Swain and Olga Porven conducted training for spring breakers. A typical training session consisted of an overall introduction and project overview followed by an intensive course on TPS law, client intake, professionalism and ethics under the Florida Bar Rules and ABA Model Rules. This included reviewing sample finalized TPS packets and witnessing a “mock” TPS intake interview conducted by Health & Elder Law Clinic students. Many questions on the TPS forms require various approaches on the part of the interviewer to elicit truthful responses and often the questions require additional explanation and further inquiry into the applicant’s background. Failing to conduct a thorough interview and answer the questions truthfully can have grave consequences for the applicant’s immigration status. Students then spent Monday afternoon conducting outreach in Little Haiti.

Outreach consisted of dispatching groups of students escorted by Health & Elder Law Clinic student guides into the Little Haiti neighborhood to hand distribute flyers, post them at local businesses and reach out to “private” Haitian radio stations, which often carried broadcast capabilities of less than one mile. Wearing matching dark green “MIAMILAW” t-shirts, the student groups were easily identifiable and welcomed into the Haitian



community. The Clinic designed multiple flyers in both English and Creole with detailed information on the requirements for TPS and the necessary documents for applying. One of the unique components of our outreach program was notice that TPS could be obtained at no cost if the application fee was unaffordable. Outreach often required “community lawyering” by educating individuals on the specificities of TPS, and emphasizing that this was a free legal service.

Intake sessions occurred on Tuesdays and Wednesdays at two primary intake sites, namely Chef Nicole Restaurant in Little Haiti and the UM Miller School of Medicine. The intakes were conducted during the day at the medical school; both during the day through 9pm in the Little Haiti neighborhood; and at-home visits by appointment for disabled and elderly individuals. The intake sessions required pre-assembled TPS intake packets, office supplies and portable photocopiers for document gathering. More often than not, documents were missing or additional information was needed so a follow-up appointment was arranged.

Portions of Wednesday and Thursday were dedicated to case rounds and follow-up appointments. The visiting students and the Clinic’s three practicing attorneys dedicated their Wednesday morning to conducting comprehensive case rounds to review each individual intake file. Some were simple, typical TPS applications with no potential bars to TPS, while other applications were complex, requiring further legal analysis and action. Many of these cases could not be processed immediately and required additional attention by Clinic students. The remainder of Wednesday and Thursday was reserved for going into the field and meeting clients to gather additional information and documentation.



*Supervising Attorney, Melissa Swain, conducts TPS case review.*



*Miami Law students conducting street outreach in Little Haiti*

Friday was reserved for the final processing of TPS applications. The goal every Friday was to FedEx all TPS applications that could be completed to USCIS. The Clinic developed easily identifiable uniform packets to allow for expedited processing by USCIS. The packets included a bright red cover reading “Haitian TPS Please Expedite” followed by a detailed cover letter individually compiled for each application based on its contents, followed by the separate I-821 & I-765 applications with their respective evidence attached to each application. Trained students and attorneys conducted reviews of each packet, which often called for multiple revisions. The Clinic attorney representing that applicant would conduct a final review before sending it via FedEx to USCIS.

By the end of March, the Clinic hosted



over 70 students from 7 different law schools and processed over 150 applications for Haitian TPS. The Clinic has already received approvals with Employment Authorization Documents and confirmation that the vast majority of applicants are in the pipeline. The Clinic will continue to work with its summer Haitian TPS Project to support its existing applicants with any potential Requests for Evidence (RFEs) and other matters which may stem from their TPS application.

The Haitian TPS Project resulted in over 150 TPS cases and a national collaborative alternative spring break program. The direct efforts of the Clinic garnered significant local and national media attention, and further public support for Haitians residing in the US. The Clinic’s TPS model of “lawyers as first responders” can be universally deployed by any clinical program to address a legal crisis in challenging conditions in furtherance of the common good. The clinic is now advocating for the Department of Homeland Security to extend the July 20, 2010 TPS application deadline, extend the duration of TPS and provide Haitians with TPS the ability to adjust to a permanent immigration status in the U.S.

