

**Transcription of the Oral History Interview with
Bob Dinerstein
July 25, 2001**

Ogilvy: Why don't we just start with the question we ask almost everybody: What was your first exposure to clinical legal education?

Dinerstein: Well, as a student – as a first-year student at Yale Law School in, I guess it was spring of 1975, I worked in a Civil Commitment Clinic – the Connecticut Valley Hospital project with Steve Wizner and Mike Churgin, who later went on to Texas, and I thought this was great. I mean, I loved doing this. I could just do this the rest of my life, and it was great. There were great cases – a lot of experience. And I also worked that summer up at Yale in sort of a legal services job. So, I was one of those people – you get to know these people when you teach – who just basically the clinic is their safe haven and they wind up staying there, and we were able to do that. So, that's really my first exposure.

Ogilvy: What kind of cases did you do?

Dinerstein: Civil commitment cases. We went out every week and interviewed people, both at a forensic mental health facility and then a regular mental health facility. And they are people facing commitment, re-commitment – some of them were incompetent to stand trial, and there were issues and very memorable clients. Also you learned a lot about sort of what the role of a lawyer was, even if you know you didn't always, looking back, have as much time to prepare and to do all the things we would do now. But some of the lessons I think were really; really quite powerful.

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Ogilvy: Is there a client or two that stands out?

Dinerstein: Well, let's see, there's the client, one of the first clients – I went in with this student who was more senior. She and I went in the room and he introduced himself and he said he was Isaac Hayes. And he looked a little – you know, he was a large African American man, and I said, "Okay." I was trying to imagine what it was like for these folks who I knew were mentally ill, unlike me. And he went on and talked – basically he then said, "How long do I have to be Isaac Hayes?" You know, the student is responding, well, you know, not really answering it. And I'm thinking, is this guy claiming he's Isaac Hayes? What's the deal with him? So, one of the things you do, of course, you look to see his medical records. You can't do that until he gives you a release. So he signed his release, but he signed with his real name. So, I give the release to the social worker and she says, "This is unbelievable. What a breakthrough. He's using his name." You know, she thought this was some major thing. So, the guy was obviously – and the reason why he was trying to not be who he was was actually less about some kind of psychiatric thing. It was he had allegedly killed his brother-in-law, and he thought his people were going to get him. So, he wanted – needed a period of time to kind of hang out. Anyway, eventually, what happened is he decided it was time to kind of become competent and to have some kind of agreement. And, of course, at that point the hospital wasn't getting ready to release him. So, he wound up spending a few more months in, but eventually pleaded guilty; insanity defense or something like that. So, that was one of those, Gee, there seems to be some ethical issues here. Also, don't they get the

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fact that this guy is, you know, making this up? And they didn't quite seem to.

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I had a client who was a "flasher" who came in. He was a big fellow, about 6'3" or 6'4", comes into the civil commitment hearing wearing a raincoat. And the social worker takes me aside before the hearing and says, "I just want to tell you, you know, your client doesn't have any clothes on underneath." Okay, and she winds up telling the judge this. So, the judge goes, "Now, Mister X, I understand you're not wearing any clothes under there. Is that right?" "That's right, Your Honor." "Oh, okay, just wanted to be sure." So, you know, you had cases like that.

And one of the things that Steve Wizner taught me, which I thought was really useful – I had one client who once just started going off, and as the lawyer you want – shhhh, don't talk about the client, the judge is going to [inaudible] see to this, you know, let him go. Basically that's going to happen – probably going to get committed – but you can't really control it and you're not going to really help things. So that was probably an early lesson in sort of the relationship between lawyer and client, and I thought that was interesting.

Ogilvy: Were there several clinics at Yale at that time?

Dinerstein: There was the Prisoners Clinic, the Danbury Prison Project that Denny Curtis was
0:04:00 the director of, and the Civil Commitment Clinic, the one that I did. And those were the only in-house ones. They also sent people to legal aid offices. I think we would

now call those externships. They were – at the time they were just part of the clinic. But later on they wound up expanding greatly. But at the time that was all they really had. And I guess it was started by Mike Churgin and Avi Soifer when they were students and I don't know exactly how – this was a few years before I got there, but only really a few, I think around '72 or '73. And they heard about some case, they wanted to take it. They talked to Steve, he said go ahead, and before you know it, there was a clinical program. To this day, when Steve sees me he always says, "You know, we do a lot more now, we really supervise the students" – because we had a lot of responsibility. We'd go out and, I mean, I was nominally being supervised, but I had probably more power than I should have had, and I say, "Steve, I mean, I think it was great. You have nothing to apologize for." But I think he feels that since I've become a person in the field that he needs to defend himself a little bit.

Ogilvy: What did you do after graduation?

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Dinerstein: I worked in the Civil Rights Division of Justice for five years. So, I left – I graduated in '77 from law school, came down here and worked till '82 and, basically, from about January 20, 1981, on, I was looking to leave because of the Reagan administration coming in, and not immediately, but I would say really it was for about a year that I was looking, you know, with some seriousness and nothing was quite coming up. I always tell this story to my students though. There was an ad in *Legal Times* saying that AU was looking for a clinical teacher in its Criminal Justice Clinic, in its Maryland Criminal Justice Clinic. It said, "We're looking for

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three things. Maryland Bar Membership, experience as a criminal defense lawyer and clinical teaching experience” – and I had none of those things. So of course I wrote a letter saying, “Dear Professor Milstein” – I’ve saved this letter. You know, here I am, here’s what I’ve done. I probably don’t meet your criteria exactly, I mean, or at all. But, if anything else comes up that you think would be – that I would be fit for, let me know. Elliott got the letter and saw that I’d gone to Yale – he’d done an LLM at Yale and knew Steve and called Steve and said, “Well, what’s this guy like?” And Steve said some nice things and I got the interview and it went on from there. But I always tell students don’t assume that just because you don’t necessarily meet the standard that you’re not going to get it. If you can get in the door, you never know what’s going to happen.

Ogilvy: What were you doing at Justice?

Dinerstein: I was in a section called the Special Litigation Section, which represented – well, works in the government, looking at state institutions – mostly for people with mental illness or mental retardation, as well as prisoners and people in jail. I tended to focus more on the mental health, mental retardation and juvenile side. So, I was involved in the *Wyatt* case, which is one of the big sort of right-to-treatment landmark cases in Alabama. So, I was working down there. I had a case in Nebraska, I had a case in Puerto Rico – a lot of travel. It’s a great job. I still tell students a lot of responsibility right away. Travel can get to you, you know – this was before I had a family. And after a while too, you just – you’re doing so much of

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the same, I would have kind of moved on, I think even without the politics and done something else within Justice, but I really – they were terrific cases. You really learned a lot. I was putting witnesses on the stand. In fact, I would have been able to put them on, like in two months after starting if the bar results had been in – yet – and you got to really just great things. It was really being a public interest lawyer with resources because – we went down to Alabama, we took 75 depositions in a month. In fact, Steve Ellmann, who was at the Southern Poverty Law Center, was representing the plaintiffs in the case, and that’s how I got to know Steve, before either of us got into clinical education.

Ogilvy: Did you feel prepared coming out of law school?

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Dinerstein: To do that? Yes and no. The clinical stuff certainly had helped. And, actually, they – my last – the last fall semester, the fall of my third year, I was down here in Washington. I worked at the Center for Law and Social Policy, doing a full semester externship. I always tell people later when looking at externships, I’ve really – I’ve been a consumer of them. I had externs when I was at Justice as a lawyer, and of course later as a teacher. So, it was kind of – so I had that experience which was a – we had a federal court hearing on a reverse FOIA case. So, I had that – I had the clinical experience, and I sort of felt like, I mean, I didn’t think I focused so much on it, but I thought, Well, this is a pretty established place, I’ll be working with people, I’ll be supervised. And I certainly was less supervised than I think that I probably should have been, but I didn’t feel like I didn’t know what I was doing.

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Also it was – I had the advantage right away at working with the director of the

office and his right-hand person. And so immediately I got to see what a really good trial lawyer did. I still remember the way he prepared this one fact witness who was somebody who had – somebody who was an institutional aide who had seen some abuse. He brought her back. We flew her in from Utah, and this was down – a Nebraska case – and he just went through – in the course of an interview with her was also preparing her direct testimony. I just thought, boy, that's really interesting. I mean, just the way he did that. And then I saw some things I wouldn't have done that he did. And so it was also it was the beginning of sort of starting to decide to be reflective about what you wanted to do as a lawyer. So that was great. It was really – and I wound up having – in fact, I was getting – it was really good for me because I got so much trial experience so early that I could never go to the – the Justice Department had – probably still has – a two-week advocacy institute, sort of like NITA program. And I could never go because I was always away on trial or at a hearing or something. So I figured, well, I was probably getting what I needed to out of that.

Ogilvy: What year did you start at AU?

Dinerstein: '82 – actually January 1 of '83. I mean, I left at the end of '82. There was a lot of political stuff going on as well during that time. And I started in January of '83. And, you know, I look back at that and I had to be crazy, because I was starting mid-year in a full-year clinical program in an area of law I did not have any experience. I had never done a criminal case, and I had no Maryland background. I wasn't

certified even to be a supervisor under the practice rules at that point. So that first semester it's amazing that I got through it. And Nancy Cook, who was in that clinic as well, that we got through it. And I found myself – I would meet with students, obviously to figure out what I needed to ask them, and then the meeting would be over and I would go, "Okay, what do I need to know?" – because I wasn't – I mean, I would – I realize what I knew as a lawyer. I mean, because I first thought I'm going to know even less than what they're going to know. They're second semester in this clinic. But you realize, without having known it, that there's things that you've picked up as a litigator with a pretty high-powered kind of litigation practice, that you just; without even knowing you know them, that you know them. And what I didn't know was some of the local practice stuff, as well as some of the specifics on the criminal side. And of course you know something about criminal procedures just having gone through law school. I did a lot of reading up. I sat in on other classes. It was a very intensive time.

Ogilvy: The two of you ran this clinic?

Dinerstein: Yes, Nancy directed it and I worked with her. And then the way our clinic worked at that time, Elliott Milstein was the director of the clinic overall and he taught with us in the defense side of the clinic. Well, actually, we had a seminar for our prosecution and defense students all together. Elliott, Nancy and I taught it. And then we had a prosecution side which somebody else taught – actually Elliott at that time taught that. So it was working very closely with the two of them.

Ogilvy: How many students were in the clinic?

Dinerstein: Usually 24. And the way that worked at that time was at any one time half would be doing defense in-house with Nancy and me supervising them, and then half would be prosecuting in one of the local counties under the direct supervision of an assistant state's attorney. And the in-house – actually the way we did it at that time was Elliott, Nancy and I each sort of supervised certain students, meeting with them. They were keeping journals and we would review that. So, there was a certain amount – and there was actually a bit of a conflict problem because if I had a student in Montgomery County as a prosecutor and we were handling defense cases, it's not that we would handle the same cases, of course, but you'd be a little bit concerned if they wanted to say something about their prosecutor and it might be somebody we were going up against. So in a couple of years we actually changed that and we got out of the prosecution side of it.

Ogilvy: What else was going on at AU in terms of clinics at that time?

Dinerstein: We had the National Veterans Law Center, which was a public interest organization that had as its clinical component, the Public Interest Law Clinic. So, instead of –
0:12:00 it's somewhat of an odd relationship, I'm not sure at the time I understood it, but the Veterans Center had really four lawyers, pretty much two of whom were really public, legal services lawyers, David Addlestone and Bart Stichman, and had cases, some of which were impact cases and some of which were small cases. And then

Ron Simon and Lou Milford were also lawyers in that clinic, but they were really the teachers, the supervisors of the students. Elliott would also sometimes teach with that group. So, there's that clinic which had been – and actually this was sort of controversial – that clinic had started as a prisoner assistance clinic called LAWCOR, which was, I think, an acronym for legal corrections or something. And, when *Wolf v. McDonald* was decided in the '70s and there was less process available to inmates challenging various things, Elliott felt that these were not as good cases anymore. So, they moved from the prisoner cases to the public interest, or in this case to the veterans cases. And at least some people on the faculty; particularly one person who was a big prisoners' rights person, never really forgave Elliott for that. So, there was the Public Interest Clinic, there was the Criminal Clinic, Nancy had just started an Appellate Clinic as an offshoot. She was actually doing that as a second clinic. Ironically, later, when we were going through the tenure process, there were people who thought, well, she's not really doing enough because her extra class is a clinic. And those of us in the clinic said, "You've got to be crazy. That's too much." She really shouldn't be doing two clinics. We were in Law Students in Court at that time and that was the only clinics we had – nothing else at that point. Shortly after, about a year later, we got a small grant to start the Women in Law Clinic and that's when Ann Shalleck came. I guess that was '84, ultimately, and then, over time, just started adding additional clinics.

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Ogilvy: Talk a little bit about the evolution of your own clinic – you know, changes that you've made over the years.

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Dinerstein: In the Criminal Clinic? Well, that was interesting actually. I just was thinking about this the other day because in my current position as academic dean I teach only one semester in the clinic and I teach only in the seminar. I don't do cases, and so the last couple of years I've floated to whichever clinic really needed the resource. Last year I taught in the Women's Law and Domestic Violence Clinic Seminar. And this fall I'm going back to the Criminal Clinic Seminar. But I'm going back to a seminar that looks different from the one I left, so it's kind of interesting. When we started it was just the Criminal Clinic and it was prosecution defense students meeting together and the three of us teaching it. And it was, even at that point I think now – again, I started in the second semester, so we were doing, as we still do really, more oriented towards trial teaching in that semester, direct and cross-examination, openings and closings, and we ended with a huge mock trial. And one thing I remember is that we had six mock trials so that every student could have, you know, an important role. We brought in judges from outside. And we divided up so that each of us would supervise two trials, because I really wanted to get a sense of what the others did and critique them. I actually watched all six trials, which by the end I had seen the same trial six times – I was a little bit tired of it. We met like that pretty much for the first – well, for that spring, which was '83, and the next year, '83-84. When Ann came on we actually added her students to the seminars, so the seminar then became Criminal Justice Clinic and Women and Law Clinic. And the reason we were doing that was we really wanted – I mean, our philosophy was we are using these cases as vehicles to teach people about what it means to be a lawyer, to have lawyering experiences, and while we knew there were

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certainly people taking a criminal clinic because they wanted to be criminal lawyers, prosecutors or defense lawyers, we wanted to say it's not just about training you to be a PD or to be a prosecutor – it's really about training you to be a lawyer. And we thought that by adding another clinic into that that we would be forcing the students to do more generalizing – and ourselves, to be honest – than would just happen in a criminal clinic. So, Ann's clinic was small in those days with six students, and we also added another teacher, of course, with her, and it really then went like that for '84 to '90, pretty much straightforward. Elliott had become dean by '88, so he was no longer teaching with us. But, you know, Ann and I and Nancy, and then usually maybe some other adjunct in some kind of configuration, would teach that class, and it pretty much went that way. I mean, what we lost was you really wouldn't talk about fieldwork or casework material in the seminar, because, you know if you talked about the criminal cases you were going to lose the Women and Law Clinic. If you talked – and already you had problems with prosecution and defense because they were in the same clinic. Then, in the early '90s we got a Title IX grant and we used it. We called it the Bridge Clinic, but basically it was a clinic in which students would be doing domestic violence cases looked at from both a criminal and a family law perspective. And the idea was this clinic almost – or the grant was a kind of expression of some of the linkages we'd been trying to make. So, we got that grant – this was a Title IX grant – and we then added a domestic violence component. And the way that – what started as a portion of the clinic that eventually broke out as its own was the students would spend a semester prosecuting domestic violence cases out of the U.S. Attorney's Office, which made it like the

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criminal side, and then they'd spend a semester in-house representing women seeking protective orders. So it really had aspects of both clinics, although the substance was closer to the Women in the Law Clinic. In a sense, the structure was closer to the Criminal Clinic and we'd hire people on a grant to be that person while the grant existed, which was great. I think it added a whole other dimension. You had people who, when we added domestic violence people; when we added those who are prosecuting the in U.S. Attorney's Office, in some ways they felt most at home with the prosecutors in the Criminal Clinic, because they were in the prosecution function and in a way it made less connection with the Women in Law Clinic students who were closer to them substantively. It was just kind of interesting. That clinic then grew. We started off small, but it eventually grew to be 16 students. And, like the Criminal Clinic, at any one time half of them would be in-house and half of them would be at the U.S. Attorney's Office. The consequence of that was by the last time we did this in this way we had 24-28 Criminal Clinic students, 16 Domestic Violence, and about another 10 Women in Law. We were up to about 60 people, and to call that a seminar, I mean, really, it was a medium-sized to large class. So, we taught them all together one year. We felt it was really beginning to be a little unwieldy because the structure of the seminar was to do a lot of simulation, out-of-class stuff. Just scheduling all those students was difficult. We spent one year where we divided up the 60 into two groups of 30 and basically taught the class in parallel, which again was kind of interesting, but made it pretty clear that we were trying very hard to capture or re-capture something that really wasn't there. And so a couple of years ago – and it also coincided with my leaving

and with Binny Miller who is now – had replaced Nancy Cook, wanting to really do a Criminal Clinic that would meet on its own. We separated out those clinics, and indeed have now separated out the prosecution and defense. So the meeting I was at the other day, the Criminal Defense Seminar, is 12 students. And those are students who for the fall will do defense and the spring they will flip, most of them, and there will be a new group – it'll be a little bigger than 12 for other reasons. And the Women in the Law Clinic is meeting with the Domestic Violence Clinic separately. And the prosecution group meets separately still. So, you know, now it's a cast of thousands. And I'm not sure it probably was the thing to do, partly because also it was driven by what the particular instructors who were running their clinics wanted to do. One of the challenges in clinical education is how do you balance program needs with individual faculty needs and individual faculty academic freedom? And, of course, as an academic dean I'm now looking at that in a different; with a different set of eyes. But we probably – I'm curious to see during this semester whether we will have lost something, whether in a sense we will have lost that generalizability, because people will be thinking, criminal cases; this is what we're learning.

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Ogilvy: One thing that I've noticed about the AU clinics is that most of them are yearlong clinics, whereas at lots of schools for various reasons they are one semester. Was that a conscious decision?

Dinerstein: Well, it was, although I'd say now it's really changed, interestingly. The Criminal

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Clinic always felt like a one-semester clinic because you had them in defense for one semester. So, the seminar was a year long. One of the things that we used to talk about in doing supervision in the defense is that in the spring, when we had new students, we didn't feel the same level of continuity that our colleagues in the Public Interest Clinic were feeling – or the Women in Law – because they knew the people for the year. Now, our students had the benefit of some experience because they had been prosecutors. But it was really a little bit different. When around the time of Claudio Grossman becoming dean, he more or less – I don't want to say

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“challenged” – but kind of met with the people in the clinic and said – and, this is also something people in the clinic were coming to – and basically saying we have a problem. And the problem is we've got a great clinic that serves, let's say, 80 students in that era. We tout the clinic as something we're known for. We are known for it. We want people to come here for it. But we're having 160 people applying. We can't serve them all. What do we do? And, we had been very strongly of the belief – and I would think this was across the board – that you needed the two semesters to really get the true in-depth quality of the experience. That one semester was just too quick. But we also realized that there was some truth to the criticism and we really felt an obligation to not just have this wonderful but small program that only a few people got, but to see what we could do to expand. Expansion was – only so many ways you were going to be able to do it. You were going to be able to try to hire some additional people, and we did. But we clearly weren't going to be able to hire enough people to continue to do what we were doing. And so there was sort of a mix. We looked at the clinics that we thought we

0:23:00 could make one-semester clinics, like the Tax Clinic, which was a new clinic we had started. So that became one semester. David Chavkin at that time joined us, and he had a Civil Practice Clinic, which he'd done as a one-semester clinic. So, that became a one-semester clinic. The clinics that historically had been two pretty much stayed that way, but – and they also got a little bit bigger. But basically – so now we have us a mix. We have some one-semester, some two-semester. We – some of the one-semester clinics have some carryover people, some don't. Even the two-semester clinics we've been a little bit more flexible in letting, sometimes, people do it for one semester. As a consequence, the clinic serves, I think next year it'll be like 170 people. So, we pretty much have been able to double, and not just with the number of people. I think we probably have lost something in depth out of the experience, but we've also been able to reach more people.

Ogilvy: I want to switch some gears a little bit here. You went through an explosive period of expansion.

Dinerstein: Right.

Ogilvy: Was this expansion during the times when federal funds were available, or did you accomplish it essentially through in-house means?

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Dinerstein: Well, I think what we did – and I think many schools did – was to start with federal funds and then to use that as leverage, and sometimes – by “leverage,” I mean, for example, the clinic I described before, what we called the Bridge Clinic, but became

the Domestic Violence Clinic, was funded under Title IX from the early '90s, probably until about '93-94, whenever the program ended. And at that point, no more money for it. Well, we were able to persuade the dean – and to this day to continue to have the clinic and to be taught by a visitor. So there is no permanent line, actually, in our Domestic Violence Clinic. And yet the law school has funded it of its own money since that time. Our Human Rights Clinic, which also started with a Title IX grant, and eventually – in fact, one year when the grants – when you could get \$250,000, that short period of time, we had both clinics running under a grant. When that grant ended, that was such a natural clinic for our school to have, given our human rights focus. I don't think there was even a discussion about should we continue it on. And so we were able to pretty – and right now I guess our Federal Tax Clinic gets federal money, and really my colleague is the one who pretty much got that passed. So we sort of feel like we're still in the grant game a little bit. But I think the grants played a really important role in our school in making it easy to start something. And then I think the force of the clinics being successful, the people, you know, the students liking it, made it for us an easy thing to take on. I know for some schools the only way they were going to be able to do it was with outside money, and once the money dried up that was it. We've made some effort to try to get some money in later years. We applied for the Violence Against Women Act money. We used to get some D.C. Bar Foundation money, but those were always sort of marginal stuff. And actually even the D.C. Bar Foundation used to fund an adjunct person for our Women in the Law Clinic for many years. That money dried up. The law school picked that up. So, we now have a constellation of

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people, almost all of whom are being funded really by hard money. I guess we have one more clinic that's in a somewhat unusual state. We're just starting the Intellectual Property Clinic. We have a million and a half dollar endowment. We are at the beginning going to be funding it out of the law school money, but eventually the hope is what the endowment spins out will be able to permit us to keep that going.

Ogilvy: That seems to be from an outsider's perspective. Do you have that sense?

Dinerstein: Yeah. Well, it's really interesting. It's a nice example of a lot of things – I don't know if you know the background of it – the person who gave us the money, Pamela Samuelson, who's – actually was a year ahead of me in law school, who's this brilliant intellectual property lawyer – in fact, she won a MacArthur genius grant, so I guess that certifies her as brilliant – and, her husband made a lot of money in Silicon Valley and is kind of an entrepreneur. So they had a lot of money and they wanted to really start a program. She teaches. She used to teach at Pittsburgh, but now teaches at Boalt Hall at Berkeley, and wanted to set up a clinic there. But for many, many years she'd worked with Peter Jazi and my faculty on sort of public interest, copyright and IP issues, and had a really good professional relationship with him. And I don't know whether it was her idea to sort of set up a West Coast/East Coast version – I'm sure Peter had a role to play in suggesting it – but basically she thought we would be a good place to have it. It would complement what they were trying to do in Berkeley, because we could have more of a legislative presence. She

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knew Peter, knew his work. I don't know how much a role it played that we had a clinic where you could kind of incorporate it, but that had a lot to do with it. In fact, there was a *Legal Times* story this spring, and I forget what the context was, but somebody said, "Well, you know, this is really bizarre that this clinic would be here and how did this happen?" And Peter wrote a letter to the editor in the next issue saying, well, it's not so bizarre. But it is, I think, a wonderful thing for us. It attracts a whole group of new students. We are now just figuring out all the issues in – there are student practice issues. There's a question of what kind of cases to take, what kind of legislative work to do, but it is a real expansion of the pie. And you know if you look, certainly for us, and I think in other places, we don't do a Public Interest Clinic anymore that does veterans' cases. It now does community and that kind of development. That's not something which we would have thought about. We wouldn't have known to ask the question in the mid '80s or early '80s – Human Rights Clinic, which is kind of unusual, the Intellectual Property Clinic. So there's really a range of things that are there and really trying to expand the reach of where clinic reaches people, because we believe it's at least an important way to learn, if not the only way to learn.

Ogilvy:

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Well, I assume from what you've said that Elliott Milstein was probably a significant mentor to you?

Dinerstein: Oh, sure.

Ogilvy: In learning how to be a clinical teacher?

Dinerstein: Right.

Ogilvy: Anyone else come to mind?

Dinerstein: Well, I would certainly put Steve Wizner in that category, you know, although at the time I wasn't thinking that this was a career thing for me. I'd actually gone to law school thinking I might like to teach. It was sort of six of one, a half dozen of another if I applied to law school or graduate school. And, you know, I saw people coming back a couple of years ahead of me in college from graduate school, applying to law school, and I thought, well, I probably should skip that step. So, Steve was a mentor, not in a sense that I was looking to him professionally, but he was sort of a role model of, Wow, he's a lawyer; he's a law professor; he seems to have an incredible amount of fun at what he does, he's good at what he does. And that certainly – and he and Michael Churgin, whom I worked with there, I think were sort of early mentors in that way. And then at AU, certainly, certainly Elliott, because the year I started in fact, which was in January, he had just finished his term as chair of the clinical section, and he had just come back from the AALS meeting, which I think was in Cincinnati, and I remember hearing he'd said – he'd just made this speech about how it's time for clinical teachers to have some status, and I thought this guy seems like a shaker and a mover. And so it was a kind of immediate ability to be plugged into clinical education, in a way that I think that I

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certainly realized even then, but as time went on, wasn't available to everybody. I also think people like Sue Bryant, in just seeing how incredible she was, as someone with the ability to explain in a very thoughtful, sensitive way, what she was doing – I mean, I always think of her as sort of the quintessential supervisor type and one who really is so generous with understanding people and all that. So, I think I would put them – and then of course the whole other group of people like Gary Palm and Roy Stuckey, who I would say had less pedagogical influence on me but certainly had a lot of influence in terms of the political structure of clinical education – Gary made me chair – co-chair with John Elson, of the future of the in-house clinic committee and that – I don't know if I should thank him or throw things at him for that, but that was certainly a very big thing for me to be involved in that kind of project. Joe Harbaugh would be another. Joe was briefly at AU before he went to become dean at Richmond. And Joe, I would say, was important really probably more in the pedagogical sense, because even then Joe's understanding of simulations was very sophisticated, and it was sort of interesting to both see what he did and to talk to him some about that. Those would certainly be some of the early folks.

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Ogilvy: You worked with Joe when he was at AU?

Dinerstein: Yeah, a little bit. I mean, I would – we overlapped – “worked with” is probably too strong, but I certainly – when I taught an Interviewing Counselor and Negotiation course for a number of years, and I started off with certainly a set of materials that

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Joe had developed. In fact, I think I got those from him when he was at Georgetown. He really was jumping around for a while there. And then I started borrowing from other places and running my own simulations. It was kind of a mix and, again, that's a very nice thing about clinical education I think – always was a great deal of sharing of materials, sharing of information, no sense of ownership about it.

Ogilvy: You mentioned Sue Bryant.

Bob Dinerstein: Mmm-hmm.

Ogilvy: Where did you first come in contact with her?

Dinerstein: Well, probably the first conference I went to was there was a workshop in New Orleans in '83, that spring, and at that time the workshops were weekend fall – I mean weekend spring, like early spring events, usually in cities. I mean, now I don't know about you – I can't keep track of what's a workshop and what's a conference.

0:33:00 At that time it seemed pretty distinct. So, '83 was that – I probably met her there. I certainly would have known her by the '84 Duke conference, which I think I met you at that conference. And I just remember – probably what happened – I'm guessing – but Elliott, who among other things is a very social person, undoubtedly organized some kind of dinner or something, and probably Sue was there. I probably initially had the sense that he thought she was a great person. I think she

also – she might have been chair in ‘84 or something like that. And so I got to know her a little bit through that. I remember her distinctly from the ‘84 conference, but I’m not sure whether I probably knew her a little bit before that.

Ogilvy: Do you remember the ‘83 conference?

Dinerstein: A little bit. I think David Binder was there. I remember seeing what he was doing
0:34:00 and finding that interesting. I remember meeting some folks from UConn, one guy who wound up not staying in clinical education, but we were both sort of similarly situated, kind of new, and that was kind of interesting.

I did have one really powerful feeling about that ‘83 workshop, though, and that is when I got there I looked around the room at one of the first plenaries – and of course at that time we were a lot smaller anyway as a community – I bet it was like 50 or 60 – it really wasn’t that big – it felt big. And I looked around and I said, “This is where all of these people wound up.” I mean, it was like this sort of legal services type people I would have known as a clinical student; legal services lawyers who – and they all kind of got here. And, I said, “This is great” – because I really hadn’t thought of the academy as a place for people who did that kind of work. Then of course at the next AALS meeting I saw where all of the professors were, and at that time it really seemed like a distinct group of people.

Ogilvy: How significant do you think the conferences and workshops have been to the

0:35:00 development of clinical education?

Dinerstein: I think they were extraordinarily significant. It's harder for me to judge now the role they play. And one of my – I don't want to say "criticisms," because it's not anyone's fault – it's somewhat of a natural progression – is there used to be a sense that if you went to a conference – and I think, you know, certainly this was true of Duke and Boulder and Bloomington and Michigan, which were to me the ones before things really exploded – you tended to know everybody who was there. If there were 70 or 80 people there, at least by sight, you could kind of figure it out. Now, I find that there's even good friends of mine I don't see because there's, you know, 300 or 350. So one was just that we were a smaller group. Second, I think, there was much more of a focus on them – those conferences being teaching conferences, and particularly in the small groups. And I found that's where it really was powerful for me. I mean, I would say over the years the plenaries were sometimes good, sometimes not. Sometimes I could tell when people were trying to show me things that they were critical of, sometimes I couldn't. But in the small groups you really worked hard at the stuff. You had to get beyond simply the surface of where things were and was really not, "Here's what I would do," but "Show us how hard it is to do it." Open yourself up to criticism. I was very impressed from the beginning with how even more experienced people like Kandis Scott, who's another I should put in there as someone I learned a lot from, would be willing to just say well, here's – you know, I'll teach this thing, and not necessarily be great at it, but being willing. "Well, I'm not going to do it because I'm not on the

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panel,” or “I’m not here as a famous speaker.” “I’m just running this small group.”

I think now people are less willing to do that. They want to use the small groups to talk. Talking is fine, but I tend to think you can do that at other times. So, there’s the whole kind of what you learn from it. I think I learned a lot, especially from the early conferences. As conferences go on you get more experienced. I think I reached a stage where I thought, you know, one or two good ideas would be great. Now I’m getting less out of them; they’re as much for meeting people that you know and you like and I’m not sure how much I’m learning from it. And for me it’s a little hard also to separate how much of that is because I’m also not doing it right now. And I’m less close to some of the issues. But the other thing that I always thought about the conferences, which is something especially as the years went on and AU clinics got so much bigger, was that for some folks if they were the only clinical teachers or maybe one of two clinical teachers at that school, this was the only real community of people they had. At their own school they were marginalized. They were not thought of as faculty. There was no one they could speak to, and this was the place to have the interaction. And at that point there wasn’t much clinical literature. There wasn’t really a way to get information to people but also to support people to say your folks back home may not love you, but we love you, and what you do is valuable and they’ll eventually get it. I thought we were very privileged because we would always send anybody from our program who wanted to go. And even in the days when we had four or five people, four or five people would go. Now, I mean we sent 20 people to this last conference, which was again, from a dean’s office perspective, a huge expenditure. But for us it did a

different thing. For us it was, Gee, if three people went to the conference, or five people, and all came back, those first meetings after the conference would be very energetic. What did you know, what did you pick up, or who did you talk to? Can we incorporate some things? So, there was that piece of it.

It was often the case also that at least a couple, if not more, of us were on the panel of some plenary, so before a conference we would often spend a lot of time thinking, sort of in a way of let's help Elliott or let's help Ann put on his or her presentation.

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At Boulder I remember, which was the '86 conference on supervision, Elliott was – if you remember that conference, it was on three descriptions of supervision. There was a kind of vocational one, which Roy Stuckey was involved in. There was sort of the CALS version I think that Phil Schrag – and, then there was a – it was Elliott and I think Gary Lowenthal – we didn't really have a name for that, I think, you know, probably snootily called it the “intellectual's supervision” or something like that. It was some other version. And so Elliott had to think about how this presentation was going to go. And we spent a lot of time talking about it; doing some demos, trying to do some stuff, a tape, which really helped. By the time the conference came we really had been thinking about it and wound up doing a lot of stuff in supervision that really directly led to her later article on supervision. So, there was really using the conferences not just for the four or five days you just

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happened to be there, but the run-up to it and then the after-aspect of it. And I've been – I have missed two conferences since I started, one in '87 because my wife was just about to give birth, and San Antonio was too far, and then in Montreal this

last year because of my son's illness. So other than that I've always gone. And I would say now I'd probably go at least a portion – to some degree, maybe to a great degree because of past experiences and more of the sense that I'm, like it or not, more on the end of probably doling out rather than receiving – not so happy about that, but you know life goes on.

Ogilvy: You're known in clinical services for lots of things – and I want to come back to the in-house clinic report – that's significant. But one of the things that you're known for is your music. I want to talk a little bit about that, how it got started and how it developed..

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Dinerstein: Well, it started for me in I guess what probably is too telling a characteristic, which is Graham Strong was the chair of the annual meeting program that year – and this was '85. The meeting was in Washington, and I had been just a teacher for a couple of years, and he decided we should have some entertainment at the clinical lunch. As you know, the clinical lunch being sort of a nice opportunity – this was also I think the first year – not the first year, one of the early years they were going to give out an award. And the award was going to go to Dean Rivkin. And so Graham called me up that time – I mean, we had known each other from conferences – he was also good friends with Nancy Cook and so, you know, I had known Graham – and he said, you know, put together something. See if you can organize some entertainment or something like that. Fine. So, you know, the term goes on. I'm not getting much chance to talk to anybody. I got to really do something. What am I going to do? And I had played piano for a long time. I had lessons and certainly

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read, but basically for many years had kind of just done, you know, playing by ear and so – which was fine for me. It was a release, but nothing much more. So, figuring I really am on the spot, I better do something. I decided that I would – and I can't remember the conscious decision to do this, but it would be fun to perform some songs but rather than just performing songs that just were songs would be sort of strange. It seemed to me that there would be some songs one could use sort of thematically to talk about where at least I thought we were in clinical education. So I wound up writing for this January meeting. I wrote four or five songs. There was one called "On Tenure" – it was to the tune, "On Broadway," by the Drifters. And because I was thinking – and actually I looked back at this a little bit this morning – a lot at that time I was thinking about the of status 405(e). This was a big question. You know, we felt we were doing something valuable, but our schools were not

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recognizing us. So that theme of that was – in fact, the one I wrote all the words to that except for one line that Graham added which was, "They all say I'm not a star, but I can play this VCR," and this was the take-off on the Drifters. But what happened was, unlike some of the other times, I actually put this all to music. I mean, I sat at the piano and played these songs and mostly just did it myself out there, which looking back was kind of probably a crazy thing to do. I also didn't know Dean all that well and I thought, What's he thinking? – he's supposed to get this award that seems pretty prestigious, and here I am leading these series of songs. And Steve Wizner came up to me afterwards and said something like, "Boy, you really had a lot of courage doing that," and I thought, Hey, maybe this was a little bit more than I should have taken on. But really I had a lot of fun with it. And, again,

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because I'm not especially – don't think of myself as being such an outgoing person, I think it probably was a reflection that I felt this was a community that was very accepting and that it would both take it in good spirit – they might like it, they might not, but they weren't – I mean, I couldn't imagine doing this in another AALS section. It wasn't even close. So I did that and had a lot of fun with that. In fact, this came up the other day because one of the songs we did was "Let's Get Clinical" to the tune of "Let's Get Physical," which was popular at that time. And a week ago the *Post* had an article about some new interior decorating theme which is to use like a motif of a hospital room or a hospital ward in your living room. Why you would want to do this, I don't know, but the title of the article was "Let's Get Clinical." So, Elliott called up and, "You've got to save this." So, it started in that

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way and then it moved on a little bit I would say to a kind of way to keep from – I won't say getting bored, but I find myself, maybe I've become too much of, you know, the kind of learner that I think we have in clinical education, which is if I'm sitting in an audience and listening to a plenary, I find myself getting kind of bored with it even if it's a good presentation, and my mind starts to wander a little bit. One of the things I wound up doing was, in the nature of doodling I suppose, was – oh, well, you know, we keep hearing these certain themes, it'd be great to kind of put a song to them and both try to capture in a sense the themes of the conference but also poke a little bit of fun at them. So I started doing that. I did that at Boulder. I remember I did a rap actually, because it was right after the Chicago Bears had won the Super Bowl and they had done that rap, and I remember there was a – Jim White was at this thing because it was the dinner for the conference and I did

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something. I made some fun of Millard Rudd, who's the consultant, you know. Anyway, he thought that was hilarious. And so I did that.

0:47:00 And I remember being at the first Lake Arrowhead conference and everybody was talking then – in fact, we were just talking about this the other day – about Carol Gilligan and *In a Different Voice* and were you like Jake in building ladders or were you like Amy building webs. So I had this whole thing of a list of webs and a list of – and sometimes these would be songs and sometimes these would not be. I think I remember '95 we had a conference in St. Louis and I wrote a number of songs for that when I was on the planning committee. I remember we did a song, “The Wanderer” by Dion & the Belmonts, and we had Dave Chavkin, who at that time had been visiting for one year – probably was at Catholic at that point – and we had him sit on a chair and we just – you know, I'm the kind – I went from AU to Maryland, from Maryland to Catholic. And some of these were sometimes a little bit – I mean, I hoped people took them the right way. I did one of the conferences – one of the first ones where we did a lot of stuff on externships – not in meetings but actually in the plenary. I remember I think Janet Weinstein and some of her colleagues and I did one – “I Can't Get No Supervision” to “Satisfaction,” and they actually were very – and we'd handed out the words and they sort of took back the words like they were upset. They weren't though, I don't think. But, you know, I was always trying to poke a little bit of fun, hopefully at myself and what I did as well as others, not just like an in-house view of externships. There was one conference where everybody kept talking about “frame-shifting,” a term which we

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used neither before nor after, but for a short time – Frank Avellone, who used to be I think at Ohio Northern and then left clinical education, that was the theme of his thing. So I kept working frame-shifting.

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And then I guess the last; in '97 at Dallas, the planning committee actually asked me to perform the songs, which was really the first time other than when I had been on the planning committee where it was actually a portion of the program that was planned, as opposed to “Would it happen?” – and so that was fun. I actually went back and looked at some of the old songs and selected a group of them and we did them. I can't actually – and sometimes people have asked me as the conference is ending, “Well, what are your songs?” And I can't do it every time. Sometimes, it's – depending on how I'm involved in the conference, I might actually have the time to do that, and sometimes the inspiration doesn't hit you. And I think probably it's a little harder now because I'm not, again, quite as much in-field. But sometimes people would say, “Well, you wrote all these things.” I know. I mean, believe me, I write them sometimes sitting in the audience. And then, of course, when you do that, just getting them out to people can be sort of tricky. But it's been kind of fun. You know, I try not to take it too seriously.

Ogilvy: From time to time you got some nice backup, too.

Dinerstein: Yep, yep. There's been some people who've – my colleagues are very good sports. They don't always have the voices to go with it, but then there's some people who

really have good voices who are willing to do that. And then actually at some of the conferences – you know, a very different way, like sometimes when we’ve had the dinners, at the end of the dinner and people are still hanging around, if there is a piano, a lot of the times I’ll sit down and we’ll just kind of gather around the piano. And since I know the tune to most songs from the sixties, I can usually fake it enough so that we can kind of do something. And there it’s been playing the actual songs as opposed to making them clinical somewhat.

Ogilvy: Let’s go back to the Future of the In-House Clinic Committee. When did you start on that committee? Was that the beginning of it or had it been going on?

Dinerstein: No, it was at the beginning. In fact, I think I want to say about ‘86 – I think that’s
0:50:00 right. And Gary was chair – and actually this was again kind of interesting looking back. Gary decided the committee was to be co-chaired by both a kind of established clinician – and he was pals with John Elson, and he thought John could do that, and actually I think John at the time hadn’t been doing much nationally with clinical education, but he was well-known in Chicago – and then he thought that it should be co-chaired by sort of a – you know, a term I actually kind of like, a sort of a “line” clinician, someone who is actually out there supervising, a kind of untenured type. And so I was – he asked me if I would do that. And I’m sure going back to something I mentioned earlier, that being at a place working under Elliott, where Gary would have known Elliott for years, would have made that easier for – I’m not sure he would have thought of me if I was the same person out of school,

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where I was the only clinician – one of two clinicians in a sense. I mean, you are sort of brought along by people who are more senior, especially if they're as generous as Bill and Elliott have been. But, anyway, John and I co-chaired the committee for most years. It was sort of interesting. We co-chaired it – divided up sort of at the beginning. We had different things we wanted to do, and we really were benefitted by having some great people working on the committee. So, we decided we wanted to get some data and we lucked into Marjorie McDiarmid, who then, as you know, did her own data collection. It really took a life of its own, and she published it separately as well, to really find out what clinicians thought about the various issues, particularly about status, but not just that. We then thought there should be some group that talks about what it feels like, more of a phenomenology of being a clinical supervisor. And we had Kathy Sullivan and Sue Kay from Vanderbilt who did that again, interestingly, at that time certainly stalwarts in terms of attending conferences and the like, but people who one would have thought of a little on the margin, and of course who have -- Kathy tragically died, but in a sense this was still where they were. We then – John and I wound up pretty much writing a section on standards or a kind of guidelines, because we were trying to update what had been done back in 1980, which is again timely since as you know there is a new effort to try to develop some additional guidelines through CLEA. And then Gary had a kind of section of almost, like, Here's my challenge to the clinical community and he wrote that. There was one, David Gottlieb, who did a lot of good work on a sort of the goals of in-house education. And, you know, like anything else, we're very busy people. It took too long to really kind of get out, but we really

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were working on it and we really then wanted, once we had a draft, for it to have a kind of blessing of the clinical community, so we went to – I forget which conference it was or annual meeting we presented some of this stuff, especially like the guideline stuff and things like what should the faculty-student ratio be. And I remember hearing some people say, Well, if you make it too good a ratio, like 1 to 8 – at my school, we were 1 to 10 or 1 to 12 – it's not going to be credible, it's not going to be healthy. There were other people to say, Please make it 1 to 8, because I'm fighting with 1 to 12 and 14, and I want to go down. In the end we let the data kind of judge it, and drive it, and we say, Well, it's like 1 to 8½, so basically, 1 to 8, and we got a good response.

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And then another person who played a really important role was Peter Joy, because Peter joined the committee in its late stages of that first draft, but was really – I think this was now around the time – I wasn't chair yet, but I don't think he was chair. He came onto the committee and had a lot of energy, was pretty clear and also was willing to do some work and was thoughtful about it, and got like the last stages of the report sort of finally approved. And then, and this was maybe fortuitous, the Journal of Legal Education, which moves its editorial location every several years had just moved to Case Western, which is where Peter was at that time. And Peter talked with his colleagues and said, you know, How about publishing this report? And they said yes. And there was a back and forth about whether how much they wanted to edit it and we didn't want it edited because the whole point was this was our report. But they published it, and I think that actually was also helpful because I

think if you're a clinician at a school who wanted to use it, it looked as if it had more of a imprimatur of authority, because it was published in the *Journal of Legal Education* and you could send it. And it was very encouraging to hear over the years that from different people that that was really helpful; that they could say to their dean, you know, This isn't just me saying it. Now, you know, if you looked closely you saw it really was clinicians saying it. But it's just it's part of that power of the published word, you know, it just has the sense of the greater things to it.

0:55:00 And, you know, for many years – I mean I've long since run out of reprints of it, but you know for many years I would continue to get requests for it. And, you know, part of the problem is the data really itself dates from – I mean, we published it in – I think 1990 is when it actually came out in the journal – but the data was really more '87 era. So it really would have needed updating. There came a point where it really from the data standpoint wouldn't be so helpful. But it was fun. I really felt good about that project. I mentioned that for most of the time John and I co-chaired it. When Bill Greenhalgh became chair of the section you might remember he went through at some point and basically put all former Prettyman in as chairs of sections of committees. And he put in Phyllis Goldfarb, whom I like a lot, but who really had had no contact – and I think John was a little bit annoyed – and Phyllis and I co-

0:56:00 chaired for awhile and then she left that. So there was sort of a period there then I think I wound up chairing it awhile and then eventually Peter wound up chairing it. But it was a good committee, and I think you know we weren't trying to do everything. We certainly weren't trying to deal with simulations or externships. I think there was some concern on some people's part especially with externships.

Well, we need something like that, and, you know, I don't know if that had some role in kind of getting folks in externships to think, Well, we need to sort of get our act together too. But we were really not trying to say other stuff is not worthwhile. We were really trying to say, Let's make the case for this, and give people a sense of what's involved in it.

Ogilvy: You later became chair of the section.

Dinerstein: Right.

Ogilvy: What were the issues when you were chair?

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Dinerstein: Well, I will say that one of the best things I did as chair was to get David Chavkin as chair of the membership, because David might have taken that fairly far. So I always think I know one of the issues that I wanted to do was – I always thought that leadership within the section – it was important to develop people and give people an opportunity to really be in positions where they could demonstrate what they knew. So I made a pretty conscious effort to have co-chaired committees to get in touch with people in advance of the year and link maybe a more experienced person with a newer person. It was also around the time when I think people were becoming much more aware of the need for diversities, so I tried to be sensitive to that. So I would say I don't know if there was a problem in leadership, but I certainly saw that there was a role to play in having new people come in. I felt a little bit – and since you are of the same era, you may feel it too – that sort of a

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transition, I mean, that when I became chair, and probably like, maybe Graham, Jeff Hartje, me, you – of that group – was sort of a transition from the kind of founders, you know, the Elliotts, the Kandis, the Roy Stuckeys, the Gary Palms – through then a later group that I see as really later to me, you know, Antoinette [Sedillo Lopez-ed.] and Mary Helen [McNeal-ed.] and the like. And so I sort of saw that as, in a sense, we'd benefitted from more experienced people seeing us and feeling we had some talent and trying to put us in those positions. So that was our role to do. So I felt that that was one thing that was an issue. Second, I thought – and I tried to use my message from the chair to do this – that there was so much rich history. I mean,

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this project is obviously an important part of that. That I knew because I had benefitted from working a program with someone like Elliott, where people really talked about this and cared about it, but that would easily become lost. So I tried to actually use at least one of my messages to really, you know, here's kind of where we've gone in the last number of years. I went back and read all the prior messages from the chair since I'd been a clinical teacher; try to see what issues people saw – and I found it really kind of interesting – and to try to draw some themes out from it.

A third very big thing which I was happy to be involved in at that time was the Clinical Law Review. We – Nina Tarr and I and Marty Guggenheim really kind of – we'd been talking for a long time that we need something that's going to give an opportunity; give a place for clinical scholarship to be published. We're not happy with what the law reviews do and don't do. I, you know, maybe we were – just the feeling there was nobody – that second-year law students – that prestigious law

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schools didn't always "get it" as to what was clinical literature. And I – we had sort of an ad hoc committee that, again – that Nina took an important role in helping to organize things. I tried to make the case within the section this was something important to do. Marty indicated that NYU would be interested in providing important funding, which was a key thing. And that eventually led to the creation of the Clinical Law Review. So really that was an important year for that. And a lot of people played a role, but I sort of feel like I had – I was in a good place to do that, that I had interest in clinical scholarship, maybe had some credibility with it, but also didn't see it as distinct from what clinical teachers did. And so those were kind of big issues. And then there's always just the, How do you make sure you get the conference approved? You know, I don't know how you felt, but I felt I don't want to be the clinical chair who didn't get the section to have a conference his year or the year that he would be responsible for. So, you know, there was a certain amount of that and a certain amount of, you know, just working with lots of people. You know, that year you – you know, I'd get lots of calls from people who were having maybe tenure fights in places and wanted information about things. And, amazing – I mean, one of the problems was there really was no central place. I mean, people would call the AALS, and of course the AALS didn't have any information. They'd call the clinical chair and, you know, you might or might not know it. I had some advantages because I could easily get to people who would know, even if I didn't know. But I liked – I thought it was, you know, I enjoyed being chair. I – probably looking back, and I don't know if this has ever been discussed within the section – it's probably something which if you did it two years you'd really nail it. You

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1:02:00 know, you are surprised, or I was surprised at how quickly you have to move on things. I mean, I had talked to my predecessors, you know, Since when you get committees going? – and I’ve actually thought in later years we haven’t moved early enough. I mean, you really have to have the committee set in the fall for the following year, because if you wait till the annual meeting to put them together it’s too late. And really you’ve got annual meeting time, you’ve got some time before the spring conference, you lose the summer because of all kinds of things – and before you know it you’re into the next group. So, you know, I think knowing that is helpful. But I thought it was fun to do. I guess I ultimately thought that basically all of the power you have as the chair – you have the power of the bully pulpit. You can try to, again, encourage other people to do things. And we’ve gotten so big that, you know, certainly no chair can really do much him or herself.

Ogilvy: One of the recurring themes – and I assume during these years that you were chair [inaudible] the status of clinicians?

Dinerstein: Right.

Ogilvy: What was your role in that fight between the ABA and [inaudible]?

1:03:00 Dinerstein: Well, as I said, I made some fun of it in some of the songs, I suppose. One of the things that was interesting that Elliott had said to me, I guess, and when he hired me actually, or maybe right after he hired me, that his theory of how this was going – of

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how clinical teachers were going to get status, was that you needed to hire people whom the faculty would accept as colleagues. And, really, we can talk about that as euphemism, or we can say you have to think that they're going to be able to do the scholarship that you're expecting of your colleagues, and have the credentials that your colleagues have, so that they can't say something like, "Gee, everybody in the clinic is from our school, has our degrees, and nobody who teaches in the regular faculty does. So, something is amiss there." Now, the risk of that approach – and, so he hired me and Ann Shalleck and Susan Bennett, and we all had that sort of background I think. The disadvantage is that there's some very good people, and you could imagine they were very good lawyers and very good supervisors, who in a sense you choose not to hire because you're worried that they're not going to make that step. And that clearly is a side of it. That's the downside. But so in some sense I'd say the first role I would have played with people of my era is being the kind of people who could be plausible with the faculty and who had some ambition to do that; that is, who would say, you know, I'm not just satisfied with – valuable as it would be to be a great clinical supervisor who handles cases and, you know, looks the other way when the faculty is coming – I think it's valuable work to do. There's no reason why that shouldn't be accepted by the law school. And I wanted to write. I had some things I – you know, I wrote some stuff pretty early on, and that was also a way of kind of making your colleagues see that, Oh, this is something.

The other thing we did was we wound up – we, partly as a way to supplement our salary, taught other classes. So people could see you in other types of classes. That

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was basically, in that sense, part of a breaking down of assumptions about it, so that by the time that our school assessed people for the tenure track, and then as people got tenure, it was noncontroversial with everybody. So I think in that sense I played one role. Certainly, as the first in my own school, other than Elliott, who'd had not had a regular tenure position, I was the first of the people to get clinical tenure in '90, I guess. I then played a role with respect to people who followed me, sometimes serving on their subcommittees, maybe helping to educate now my ranked and tenured colleagues about supervision. And one of the things we did was to really emphasize that if you're going to evaluate a clinical teacher you need to see them as a supervisor. It's a lot of what they do. You can watch them. You can watch a videotape. And I would sit in it if I was on a committee. I remember being on Binny Miller's committee. There were three of us watching the tape. And, you know, one is like the three bears, sort of like one of the persons said, "I can't believe how open-ended you are" – this was one of my colleagues. I said, "Well, actually, I think there are ways in which she was too directive." And we talked about that. So it was also, I think, to not just say, "Oh, she's great," but to say this isn't something you can look at with a critical eye. And then the third person said, "I don't know what this is, but it looks fine to me." So there was that kind of internal role, I think, of just shepherding people through. And, a lot of that, of course, is what they did themselves. But you know, again, you have a role to play. Nationally, I would say I've written lots and lots of tenure letters. We mentioned Sue Bryant before. One of the great ironies is that I wound up writing a letter for her tenure. And in fact I even said in the letter – this seems very odd to me – I mean, it's only by the bizarre way

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in which clinical teachers don't have status that I could be writing a letter trying to say that you should hire her. And mostly those are – have been successful, I think. So, that's sort of a way; and, again, I try to take that seriously, as I'm sure others do – and if it's often based on scholarship, to really read it carefully and to write a very thorough letter. But sometimes it's also being like for some people I've had to – not had to – but what they've asked me for is how has this person been in the clinical movement? I mean, what do you know about them? And so the ability to say, you know, I've been in conferences with this person, I've worked on committees with this person. So that's sort of a role I have; and a lot of the ABA stuff; a lot of the being on site teams. And also I've done, not a lot, but a certain amount of consulting at law schools with – often, you know, sometimes it's the clinical program that will ask you to come in, sometimes it's the dean. And I remember one dean that I'd been on a team with, and he thought I had, you know, I was not crazy – again, I'm not sure what his standard was – Gary was the standard. But, anyway, he had some idea about what he expected a clinical teacher to provide. And so he then had me come to his school because he wanted somebody and he said, Look, I know I'm not going to agree with you on everything, but I respect your views about this. And that's been something very rewarding to me. You know, I think that longevity can have disadvantages, but to the extent it gives you a certain amount of influence with people who, Oh, okay, well, I'm not going to listen to this from certain people – but, you know, You have a certain level of being established that I'm going to listen to you. So, that's been I think something that I've actually found very rewarding. And I will still, even when I'm very busy, if somebody says, Look, we

really are in bad shape and need somebody to come out, I will try to make my time to do that, even when I probably shouldn't. And then I guess, informally, there'd be a lot of things too, of course, with talking to people. Probably those would be the things I would point to.

Ogilvy: What do you think has been the role of ABS standard 405(e), now 405(c), in helping
1:09:00 clinicians get better status at schools nationally?

Dinerstein: I think it played a very important role at first. I think there are many, many law schools that do care about not only – and they want to stay accredited obviously – but also don't want to have sort of as an ongoing issue the status question. So I think in certain schools being able to have a report – and, you know, I always saw my role as if I were on a team and they had status issues to make sure that got right up there. And I had very good success with teams, you know, keeping that in. So they just say, Well, you know, this is something we have to deal with. And it also would help people at those institutions that might have wanted to do something, but perhaps felt they couldn't – or a university that was getting recalcitrant in the law school, and say, Well, our accreditor is saying that. So, for some schools it made a really big difference. For other schools – I would say our school is like that – I mean, in the second category they probably would have done it anyway. It was
1:10:00 something to say, “Well, this just reassures us. I don't think it probably made a – in a sense, a proximate cause – made a difference. I think there are some schools for whom it really doesn't make a difference. They tend to be the more elite schools

that know they're not going to lose accreditation. But even those schools have, over time, moved to something which, while not equal, is at least some greater status – you know, long-term contracts. They may not have the same titles, the same pay, same perks, but they have security at positions they did not have. And so that's certainly not something to sneeze at.

What I see now actually being useful actually is being able to count people as faculty for faculty-student ratio purposes – which is not a 405(e) issue, it's a 405 issue. And I know in some instances that if you are on a team and you come in, you're saying, you know, you're not giving these people status, you should not be permitted to count them. That has been an issue for some places and sometimes it's a fight.

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Now, as long as for – given how long these issues have been out there and how one thinks these have been resolved, I still see, since I am now on the AALS membership review committee, schools that have clinicians who are, you know, in no status positions. Sometimes they've got heavy grant funding, but not just for grant funding. I – you know, one thing that happened in our school which was interesting, we had – I alluded to this – we had clinical tenure from mid '80s till just a couple of years ago and it was defined as the same as tenure, same titles, same salaries, same perks. However, it was tenure tied to the clinic, which meant two things. If you left the clinic you did not have tenure if you were not going to be teaching as a clinical teacher. Conversely, if the clinic was terminated; program was terminated you would lose your tenure. The latter was not much of a risk for us. It's interesting. Now, there's been some development to say that means the whole

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program and not just a particular clinic. That was not our issue. But, the first issue was a question. What would happen? And it got tested when one of my colleagues, Nancy Polikoff, was in the clinic. She had been there for awhile and decided that she really didn't want to teach in the clinic anymore. And she spent two years, if you will, visiting on the regular faculty. We didn't call it that, but that's kind of what it was. She taught Civil Procedure. She had a regular load and was successful with it. And then said, You know, I want to move over permanently. And, the question was, Well, how do we decide that? Our manual said only you will evaluate people who leave the clinical tenure track for the regular or vice versa, by the way. And the question was, What does the evaluation mean? And not the clinician, which I thought was very interesting, but some people on the faculty who were not clinicians said, Well, this is absurd, I mean, she's been a faculty colleague for 10 years, we know she's good. I mean, what kind of an evaluation – we should get rid of these distinctions. And, I thought – I was still director of the clinic and I actually had an interesting – I had a bit of ambivalence about it. I mean, on the merits of equalizing I thought that was absolutely right. My concern was – and the only thing that I thought clinical tenure gave you in a positive way was if the person left the clinic it meant you could make a claim to replace that person. There was some integrity to the program. And indeed back before I started in the clinic, two of my colleagues who are now on the faculty had been half-time in the clinic, but when they stopped teaching in the clinic they were not replaced with a tenure track line. So we'd had some history with that. But what I realized was, and it came up around the same time when the person was leaving the clinic; when Nancy was leaving, we

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had a slot, and we said absolutely we get to replace her. And there were people who said, Well, not necessarily. You know, we may have other needs; there may be other reasons. So, what I realized was we'd still have to do our politics. We'd still have to argue and persuade. And once you're in that situation, there's really no difference. It's no different from a faculty member who teaches Torts coming to the dean and saying, You know, I really would like to switch out of Torts. Sometimes you let them, sometimes you don't. Sometimes you say you'll let them eventually. It's a negotiation. It really shouldn't be any different here. The actual formal transition got to be a little delayed because of other reasons, but we finally adopted our new manual last year. And now all the manual says is it describes the clinical teachers as faculty whose primary teaching is in the clinic. And the only reason it says that is to describe what their teaching load is, because the teaching load for those people is clinic plus one class. Everything else is the same. And I always thought that was, you know, was with a whimper not a bang. But, in a sense we would not have been able to reach that in 1986, because it would have been too much: How do we know these people can, you know, walk and chew gum? We'd been able to build up over time to the point that, I mean, even experienced colleagues thought, Well, obviously the way its played out, it's worked well. And the newer colleagues would come – who grew up in a different time and school where clinical education was more established – I think this would have been like talking to your grandparents about the war. I mean – what do you mean there's an issue? And so it became a non-question.

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And, along those lines, when we had our last ABA inspection, which was I think '95 or '94, one of the people on the team was David Vernon, who was from the University of Iowa and had been the president of the AALS the year Elliott was chair of the section. And Elliott and David had sort of – I think David had made – was not a very big fan of enhanced clinical status, and I think Elliott's speech had kind of taken him to task. And Vernon, whom I had not met, was on the team, came to visit us, and we had some meeting before the first day at Elliott's house with the team and some people and he basically said, "Well, you were right, Elliott, you know, you told me that this is the way we should go. I was skeptical about it, but what your school had done really demonstrates that was the way to go." So, that was sort of a nice – you know, big of him to say that and sort of a nice moment.

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Ogilvy: Just a couple more questions. And this one I think my sense is that because you are now associate dean, and have been some time, I really want to hear your perspective on what's the future of clinical legal education. You really do kind of bring two hats to the question.

Dinerstein: Yeah. You know what? I don't know. In the sense that right now – when I left as director, which was end of '96, our program was staffed pretty much with full-time tenured, or tenure-track – and in fact at that point everybody was tenured except David was tenure-track. I think we had eight people if you counted Janet Spragens, who does our tax clinic help. And we had two adjuncts or part-time people – 10 people. We now have 22 people – that doesn't even count me. I mean, we have a

whole group of people we call practitioners and residents who are like fellows. Some of them are kind of longer term. Some of them are really like two- or three-year positions. We have a couple of people I don't think we are going to keep them very long, but they're in sort of super-adjunct teaching positions, really almost half-time positions, and kind of pay accordingly. We have tenure-track and tenured people. And it is really – I mean, it's no longer the case that the director of the clinic runs a small law firm. I mean, this is the director running a pretty, you know, medium- to large-sized law firm with a lot of those issues that get raised in there.

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What I see as I guess happening is, first of all, proliferation of subject-matter areas in which clinical education operates. I think our Intellectual Property Clinic is one example of that. I think Community Development as having been one, and I think Tax – some of that might be driven by where there's money. But I just think there's a sense that there's lots of areas of the law that could lend themselves. So, I think you'll see a greater variation than when I started the classic school – a Civil Clinic, a Criminal Clinic and that was it. The Civil Clinic did everything. The Criminal Clinic did only specific stuff – and that probably would have described most clinics. So you don't see that now. I think you'll even see it less as time goes on.

Second, I see probably a real mix of personality. And, again, I don't know that our situation is going to – how stable it is – I don't see us reducing to eight or nine anytime soon. I think also law schools generally, as law firms, are looking for people who have less permanent relationships. There's a certain greater flexibility

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in that. There's some dangers in it, the obvious ones being, you know, academic freedom and the like. But I don't know how many – and if anyone's surveyed how many schools in the last few years have moved to a kind of fellows program. And just in this area, Baltimore has done it, we've done it. I know Denver has done it. So all of a sudden, you know, whereas in the past you really had Georgetown and now you've got, you know, others around. They don't all do the same thing. They aren't all the same quality, but I see that as something that's happening, and for economic reasons might well continue. And it'd continue to be a group of people who really want to do this work. So I see that happening. And I also see – and I think the big question is, Is there some reasonable possibility within some reasonable future time that everybody gets a clinical experience? What we're shooting for is everybody who wants one. And last couple of years before this coming year we were pretty much able to do it. We would say, You may not get the program you want – you'll get something. We had 300-some-odd people apply for clinic this year. And there was no way – but we were able to sort of find an increase and, again, some creativity on the clinic's part; some resources from the dean – but we'd like to get back to that point in normal years and say, Well, at least we're going to address all who want it. The tougher question is, Do you give clinical education to everybody? There are, as you know, a few schools that do that. Sometimes you have to poke around and see whether that's truly happening. It tends to be smaller schools that do it. So the question of whether a school of our size – or your size, or a reasonably large law school – could possibly offer clinical education to everybody. What would that mean? What would it look like? What would it be like to have

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some number of students who really don't want to be in the program? I mean, it's something which we never really had to deal with much, and it's always somebody who maybe is doing it for what you consider to be the wrong reasons, but generally you can kind of grab them. And, you know, we've become like legal ethics: something which they feel like they have to do, and given that clients are being represented and you really don't have the same luxury of just having someone check out – and, I wonder about that a little bit. But I also see a lot of clinical methodology much, much more integrated in a way that seems not controversial. I think the McCrate Report has played a role in that. I think just the fact that more and more new faculty coming to law schools have themselves been in clinical programs, it is certainly not controversial anymore for a faculty member to say, I'm going to do a simulation in my class, even a very extensive one – even in a first-year class. In fact, it's not only not controversial, it's really, Of course we should be doing this. In our school we've been doing some stuff trying to break down some of the first year, you know, the kind of categories of Contracts, Torts and Property and trying to do some integration of them and also introduce some of the things that we would do more later, including some stuff in lawyering and clinical education. I think legal writing programs to some extent have expanded from pure writing to look at skills in addition. And of course lawyering skills are part of that. I think there is some question as to whether all those things should be called clinical education. To my mind they're all experiential. I'm not sure I'd want to all call them clinical. But I think the importance of practice and practice-based training linked to some theoretical approach, I think that battle has been won. A lot of it

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comes down to resources. As we know, it is not – you can't do it well on the cheap. You can do it. You know, you can do it pretty well a little less expensively. But I do worry about it, you know, even at our own school with the 22 people I mentioned. When we had eight people who had all gone through a tenure-track process you knew that these were, you know, the tippy-top of the people you could have – and we've had very good people. It's no criticism of others, but if you're bringing in someone who is more junior for a two- or three-year period, it takes awhile, I think, to get your sea legs as a clinical supervisor. Is the quality exactly the same? Probably not. We try to spend a lot of time training people. Elliott does a lot of that, actually. But I think there is a bit of a trade off. I think it's worth it for the reasons I said way at the beginning about trying to make this available to more people. But we're not making Ann Shalleck available to 160 students. She's still got her number of students, and we're trying to use someone like Ann to work with other people who are more junior and sort of have some of the benefit of what she does. I think that's institutionally the right way to go. But I think it has to be monitored so that you're not really – I always thought that it was very hard to maintain, as a clinical teacher, a strong commitment to supervising students and to continuing to do it, a strong commitment to scholarship and doing that – an institutional actor and to do all those things.

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Now, what you found, or what I found, was there were people who clearly were still doing all the supervision and very actively involved in that, but they often were not doing much on the scholarship side, and neither didn't have to do with the

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institutions or had some separate situation. They are the people who write, that are often people who are no longer doing that work, if they ever did. And there aren't that many people who are doing both. And I always thought it was the strength of our program that really everybody was doing all of that. But it comes at a cost, which is, you know, after awhile people can't continue that pace or, you know, after 20 years of it they say, Well, you know, I need to do something else.

Ogilvy: Is there any other topic that you should touch on or a question that I should ask?

Dinerstein: I think we've really covered – I guess the only other thing I would say is we sort of did talk about, but I just would mention it again. There's so many different –
1:24:00 clinical education not only has gotten so much bigger and the conference is so much bigger, but the notion that there's some shared experience, which may have been always false, is really much less so now. And so I think the challenge is for people to feel like what they're doing is alike enough with what others are doing to feel like they're a part of some same thing. I mean, I think the community of people who are clinical teachers is a wonderful community. You know, I mentioned the fact that experienced people have often continued to participate. My sense is that's decreasing a little bit now. But maybe that's again inevitable. And of course the flip side of those people participating – and I recognize that I have to be careful because I could be thrown into that group – is, well, isn't it just the same old people who always just have their friends doing it? So, you know, there's a tradeoff there. I don't think you'd want to lose the Steves and the Elliotts and the Wallys from

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some involvement. And maybe they shouldn't be on every planning committee and every conference, but every once in awhile at least one or two of them ought to be involved, because they bring something that's there, and you know there's that group. There's the group that's really very oriented towards public service that in a sense sort of seems to be not going backwards, but kind of going back to some of the earlier debates – Are you a teacher? Are you a lawyer? – saying, let's not lose our community involvement, which is important. There's also the sense of are you – you know, you clearly are part of an academic atmosphere. What does that mean? What kind of trade offs? Again, you don't – I don't tend to hear as much and I don't know if this – I doubt this would have been an issue in Montreal, but I don't think you would have had a conference on scholarship that would have drawn anywhere near the number of people 10 years ago. Or the issue would have been, Is this something we should even aspire to do? Now, it's much more of, Of course we should do it. Let's have a broad view of what it is to do. Let's talk about how we get it out there, how we arrange the way to do that. So, I think it's kind of a natural part of the growth process. And I would think that, for example, chairing a section now is going to be much more complicated. There's so many committees, so many people who aren't, you know, you can't just kind of say "Boulder" and everybody know what you mean. And I do think that it's important that people keep those connections.

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You know, I think CLEA's development certainly, which we haven't talked about, is also one that actually did come up a little bit under – I didn't do this, but I

remember we sunsetted what had been called the Alternatives Committee, because the Alternatives Committee had been designed to look at some other organizational arrangement, and we talked to Mark Heyrman and we said, Well, it kind of did what it needed to do, so guess what? – we can get rid of it. I always thought from a bureaucratic standpoint when you can get rid of a committee, that’s a good thing. But I think CLEA has worked very well with the section. I think people have been pretty sophisticated about, well, What can CLEA do? What can the section do? There were certainly some growing pains in the beginning, but I think my own sense is that clinical education is in a good place. It’s very vibrant.

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Certainly, also the international interest in it – which is something we haven’t talked about – I’ve done a little bit of. I mean, this is what people in Central and Eastern Europe and in South America and in Asia – that’s what they want to talk about. You know, they are light-years even from where American law schools were in the late ‘60s and ‘70s in terms of what they do that’s practical. But, with that, what they’ve seen is, boy, this is the thing, you know, it may help them solve problems in the delivery of legal services. It’s something that students are clamoring for. It’s a smaller world from a communications standpoint, and I find that very interesting, partly because I think that so much of what clinical education is about is that it’s a process of learning and educating yourself on working with others. And the extent to which that’s cross-cultural I find to be an interesting thing. So, that’s my next big project.

Ogilvy: Yeah, do you see a lot of parallels in the growth? You said they were even a little

bit earlier than where we were.

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Dinerstein: Right. There's some parallels. What you also see is that as much as we have rightly claimed over the years that there haven't been enough resources for clinical education; that the grants are not there is that we live in a very rarefied place. I mean, we have law schools that have full-time law faculties – that in many countries the faculty are not full-time. They're one-third time. They've got a practice; they're teaching; they're doing other things. They also are often very, very in a way that we have doctrinal faculty who have called themselves theoretical people, but they really weren't very theory-oriented, they were really more doctrine. They really have theoretical people. I mean, they've got people who are, and you know because you've had some involvement – people – Jagiellonian. And there's a group there that is very – you know, it's like being in the Middle Ages – university people who are very scholastic in their approach. For those folks to kind of take in, not just like others, but to sort of welcome them as equal colleagues, I think is more of a challenge. And many of those countries don't have the kind of internal resources.

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What they can get – and you know, is – get foundations like Ford or get groups like ABA-CEELI to at least provide some kind of jump-start. I also think that – and I say this to groups – if people are coming from East Africa or from Central Europe or South America to visit U.S. law schools, what you see today is not what was there. And I still remember what we had. You know, I still remember being in a trailer outside across the street from the law school. And I'm trying to say we thought we had great programs when we lived in those kind of facilities, when we had no status.

So, start in a way that works for you. Don't be put off too much by all what you see here. It's – over the time frame it's been actually a remarkably quick development to that. That may not happen for you, but you can really achieve a lot.

Ogilvy: One thing you had mentioned when we were talking about the changes in legal education over time was the fusion of the community [inaudible]. I'm wondering whether or not this development of the regional conferences is an attempt to compress that into a smaller [inaudible].

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Dinerstein: I think it probably is. I think also having concurrent sessions where not everybody is attending the same thing is part of that. I think it focuses on new teachers, add-ons or workshops in connection with clinical, which I think made a lot of sense. I think there was a need that people who were new had to talk to other new people. And then the flip side, at the directors conferences there's people who are really dealing with management issues that need to be there. You know, regionally, I mean, the Midwest has really been the – has certainly set the standard from the standpoint of a teaching conference. I'm not sure anybody else has really gotten anywhere near them in terms of some regular thing. And of course from a scholarship standpoint I think the mid-Atlantic and of course, Steve Ellmann's workshop – there've been some efforts to do both of those in other places. I don't think they've had the same kind of staying power. And part of it is you really need an organization, but you also need some people who would simply make that their job – Steve obviously in New York, David here. Somebody's got to, you know, organize it and be willing to

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spend some of that time. But I do think that our effort is to try to be smaller again and then come together for certain purposes.

Ogilvy: Anything else?

Dinerstein: I don't think so.

Transcription of audio taken from video -- By: Barbara McCoy