

**Transcription of the Oral History Interview with
Harriet Katz
January 5, 2006
Washington, D.C.**

OGILVY: Harriet, the first question I ask everyone in these sessions is: What was your first exposure to clinical legal education?

KATZ: That would be my job at Penn clinic in 1986. Well, I was hired by Doug Frenkel, the director of the clinic, to be a clinical – the title is "Lecturer/Clinical Supervisor," and work directly with students in the Civil Practice Clinic. I had not actually looked for a job in that particular field. It was mainly that I had been working part-time. I was ready to go back full-time. There were family reasons why it would be helpful if I did. There was a job available, and I networked and there it was, and it was a very, very good match for my interests. So I worked with students in a civil practice clinic. We had I remember at that time something like four or five supervising attorneys, each of us working with about eight students working on civil cases in Philadelphia.

OGILVY: When you say civil cases, what was the range?

KATZ: We did family law cases, such as custody and support. We did benefits cases, I did unemployment comp cases. I did some disability cases. We – they screen cases and then decide which ones to take and based on the students who needed cases as well.

But one of the – I guess the main factor – if it was civil, it would be something that was a level of complexity that could be done by student, a little practice experience, and it was also likely to have significant developments, if not be totally resolved during a semester-long commitment, so the students can see the case, beginning, middle and end – what you might call the small case clinic.

OGILVY: How did you get to Penn? How did you learn about the job?

KATZ: I had worked in Legal Aid and I had worked in other public interest sector jobs in Philadelphia, and I think – you know, Philadelphia has maybe 9,000 licensed lawyers, quite a few public sector positions. Sometimes I'm convinced there are 12 lawyers doing public interest – I mean, you always know somebody who knows somebody. It's like not even six degrees of separation. So when I was looking for a job, I just called people to network, and somebody – I don't remember who actually said,. "You should call Doug Frenkel at Penn, because he's looking for somebody in the clinic, and you would be good for that." So it was a networking thing. I think at that stage, and you and I talked before this interview was scheduled about, Well, where do I fit? I'm not a first-generation sort of founding mother, you could say, but by the time I got into the field I think it was pretty well developed. But I think a lot of the people at that stage had come from legal services, had come from what I'd say public sector. I had worked at PILCOP, Public Interest Law Center of Philadelphia and Women's Law Project in Philadelphia. So – and a lot of the clinicians had come

from that kind of background, so clinicians knew each other. It was a networking kind of thing.

OGILVY: You graduated from Yale Law School in 1972.

KATZ: Yes, I did.

OGILVY: And it wasn't – you didn't do a clinical –

KATZ: Actually, there was a well-established clinic there. I worked for New Haven Legal Assistance in the summer, and another legal aid out of state another summer. But I did that. I also worked on some public interest – geez, I've forgotten all about this. I did public interest legal cases at the time. Well, one was a criminal defense of some Black Panthers that had been arrested in the Alex Rackley murder. I can tell you the whole story of the Black Panthers in New Haven. And one was an abortion law reform case. Those lawyers all knew each other, and in fact two of them that I was working for in two different cases used the same answering service, so I had to be very specific in calling as to who I was talking to. But, anyway, that's what I did there. But there were people doing – Steve Wizner was doing Legal Services.

OGILVY: How did you make the connection with the attorneys doing the public interest cases.

KATZ: In New Haven? You know, I don't think I can remember. Again, it's sort of a networking thing. I think they were Yale graduates who would turn to Yale students. There was a women's group, the Yale Law Women's Association – that's how I connected on the abortion case, which was Katie Roraback, Catherine Roraback, who's kind of a model. I mean, the Roraback family goes way back in Connecticut – I mean, colonial times, whatever, and very established. And she had practiced real estate and all kinds of establishment things in one part of Connecticut, and then she did her political cases in New Haven. And the other one I don't remember really. But, again, it was a network probably through Yale student groups.

OGILVY: This is second, third year?

KATZ: Mmm-hmm. (In agreement.)

OGILVY: And after you graduated, what did you do?

KATZ: That was when I went to – well, I was at Bucks County Legal Aid in Pennsylvania, and then during that time we were raising money for the Women's Law Project, and got started with that.

OGILVY: Tell me a little bit about the Women's Law Project.

KATZ: Well, I mean, it was a group of us from school that wanted to do impact litigation, if we could get money to do that, studies if that's what it came to. And Ann Freedman, who actually I'm teaching with – she's on Rutgers' faculty also, was probably you could say the founding person there. That's what we wanted to do, and we set our minds to do it one way or another, so we were able to do it.

The Women's Law Project still exists actually. It did cases involving girls in sports, girls in public education, integrated Central High School, which was a big accomplishment in Philadelphia, academic high school. And also if you track any of the reproductive rights cases in Pennsylvania you'll find the Women's Law Project involved.

OGILVY: Who else was involved in that?

KATZ: Well, Ann Freedman, who is teaching; Barbara Brown, who is in private practice now; and myself. And I think there were one or two others at various times.

OGILVY: And this was a stand-alone project? It wasn't associated with Bucks County?

KATZ: No, no, we were actually in downtown Philadelphia.

OGILVY: And why did you leave that?

KATZ: Well, there was a point when we were out of money. We were actually working there a while on employment comp. So that was one of – that's life in the public interest sector. And then I did have an opportunity I did have an opportunity to go to – I think from there to PILCOP, where I did litigation involving employment rights, and also did some work for the elderly.

OGILVY: You would be working with law students?

KATZ: We had worked with law students a little bit at PILCOP. The Women's Law Project had students coming through all the time. In fact, there was an age cohort of women lawyers – we didn't restrict it to women, but it was mostly women who wanted to work there – a little younger than me – over a period of time where quite a few of the women students in the Philadelphia area had ever spent time at the Women's Law Project in the summer during the year. It's kind of interesting – I keep meeting people who, "Oh, I worked for you at Women's Law Project in 19 blah" – you know, '75 or something like that. Okay, I don't remember that, but it's probably true.

OGILVY: And after PILCOP to assistant deputy public advocate?

KATZ: Yeah. The state of New Jersey had a public advocate at the time. Well, they structured some of their – like people representing the public in rate matters and public defenders and so on under an umbrella called "public advocate." And then

there was a unit there called the Public Advocate, which was like a small public interest law firm funded by the state to do various things. I don't think they do it anymore, which I totally understand. I mean, I'm not sure why they did it then, but we got to do some interesting things at that time.

I remember one case was something that just came back to me, which was I did a case involving a deaf man having the right to be a letter carrier. That was helpful. That was a neat thing. We did some work involving – I mean, I was working on housing, environmental, employment. We did a lot of interesting things there.

OGILVY: And why did you leave that position?

KATZ: That's when I wanted to go to part-time work, and I was able to get a judge who let me work on a restricted schedule for a while, and then – so that was interesting there. But when I got into teaching, I think that's when I felt like there was a really excellent match. When I got back from that break in '86 is when I really felt that was a good match for me, and a very exciting thing to be doing.

OGILVY: What was the clinic like in '86 when you joined it? Was it structured?

KATZ: Well, the Penn clinic was not – I don't know if it's like any other one, but there was – I think one of the key features at that time that is not true now, either at Penn or at

most places, was that the attorneys, the supervising attorneys were not faculty members in a very rich, full sense. We had the title of "lecturer." And you know, I don't know that there's anything much below "lecturer," except "adjunct lecturer" possibly. It goes without saying we had no voting rights or anything like that. We were allowed to eat in the faculty lounge, although there were people who had doubts about that – I mean, seriously. And we were invited to if there was a faculty sort of event – maybe – I don't know that we got invited to everything, because we were physically a little bit separate. So we may have missed out on things.

We were very committed to working with the students and helping them learn how to practice and be reflective about their practice. I don't know if we would have used that language, because some of that literature using that kind of language had not really been written yet. Some of it was – I wasn't familiar with all of it. In fact, I would say I got oriented probably by meeting – I was told to read Kenneth Kreiling – can't remember the name of it, but we read and discussed several of the key pieces of the time – pieces of scholarship at the time. And I find even, now that I've had the chance to do some writing myself, I still go back to some of the old pieces. They are so foundational. They are so important. But we started with that, with trying to get students to discuss and reflect on their practice, be attentive to the client, all those things. And we were sort of like halfway between legal aid lawyers and faculty members, is the way I would put it. I don't think anybody did – in that group – anybody did any writing, for example, which is now more typical of clinicians that

were doing scholarship with--

OGILVY: How many people were involved in that?

KATZ: I'm going to give you a sort of order of magnitude, because I don't remember exactly. I think we're talking about four people, five people, something like that. Doug was the director, and still is the director actually, had a faculty long-term contract status that now more of the faculty there has – almost all of them.

OGILVY: And you said you read Kreiling and some other foundation – was there a mentoring program, or how did you get this?

KATZ: There was not a mentoring program in the sense of, "You're a new clinical faculty member, let's train you in something for a while." There was, I think, a sense – I guess they had a sense that I knew a little bit about how to practice law. I seemed to have the personality to do what I had to do, and I think that's probably right. Doug – we would co-teach, as I remember, and Doug co-taught with me the first semester, and continued to be a resource to me and other newer people about how to work with students and so on. It was more of an apprenticeship, not a structured learning. In other words, I would work with students – I might have started with fewer students than I later had, I don't remember. And we would talk about how to introduce the students to a new case, how to pick a case, how much instruction to give the student,

how to review matters with the student. All that was sort of learning as you're going, both with my own intuition and with input from Doug.

In terms of written material, like I say, I guess we had a bunch of new people at the time. We read the Kreiling piece. I started going to clinical conferences probably my first year of teaching. I think I missed a couple of them. I went to all of those, and those were very valuable.

Now, I've got, if I could unpack my office, which has recently been moved, I know I have usually close to hand the New Mexico Symposium from 1989, which is based on papers from the '87 – I was at the '87 conference. That's got the most – I mean, until the Clinical Law Review was founded, a very solid collection of very important papers. So that kind of thing when it came out.

I forget where we were.

OGILVY: (Off mike)?

KATZ: Yeah. I mean, I think we were handed one or two things. We went to the conferences and met people. A lot of it was step by step. I think, like learning a lot of things, it's better if you have some exposure before you start reading about it, because in the abstract it's very – it's like when I teach interviewing or negotiation or

something, I'm very happy to have students who have already done some of those things, because they have some idea what's going on in that context.

OGILVY: Do you have any specific memories of the '87 conference?

KATZ: It was in Albuquerque I think – am I right?

OGILVY: I think that's right.

KATZ: I think that's right. And I think I bought a terrific pairs of earrings at one of the shops in the old city. Now, I would say the socializing of the clinicians, including shopping together, has been one of the fun things about clinical education. You can edit this out, but you know the old city of Albuquerque, La Jolla, San Diego – you know, I have specific pieces of jewelry that remind me of specific clinicians and outings.

The clinical conferences I think – you were asking – one of the questions you said to think about in terms of key events – I would say that clinical conferences have by and large been really, really important. They're not all equally good. It depends on what the subject is and what – you know, my own frame of mind, what I'm thinking about that year. But the networking and encouragement that you get there have been fabulous on teaching methods, on teaching ideas and on scholarship – just absolutely invaluable. And some of that's – I mean, that's what the reference to shopping is a

little – you know, amusement – but there's a lot of down time. There's a lot of informal networking and encouragement that goes on, as well as the structured stuff.

OGILVY: In addition to your supervision, and you also did some simulation teaching – (inaudible) – trial process.

KATZ: Right, right. The issue in teaching skills – you know, this classic issue of if you use live cases you learn the sense of what it's like – you learn the client relationship skills and the planning skills and the skills of how to respond to the uncertain situation, the unformed situation, the situation that's constantly changing, to learn a specific – you don't – you can't be guaranteed you'll learn a specific skill, particularly with a specific level of difficulty. And for that kind of teaching, simulation works pretty well; though it then doesn't have the urgency or the uncertainty that – you know, if you're going to take a deposition – use pretrial as an example. We jointly taught, because then if somebody had to go to court with their students the other person was there – I jointly taught with Ron Krauss a course on pretrial practice. And I don't know that they really had one before, so I think we developed it. We were able to pick a textbook. I can't remember, Mauet? – I don't remember. We picked a textbook at some point, but we also had to develop a lot of other materials and figure out what we would want to teach. And we decided to – you could start with interviews – some of those courses started with interviewing, and we were doing that in the clinic. I think we started with complaint drafting and then went to discovery,

the discovery rules. We had a simulated deposition, some written discovery materials and what else did we do? I can't remember what else. Ron is very inventive, and created a case file that all the names of which had to do with the movie "Casablanca." I mean, it was Ilsa and Rick and – you have to make up names for a simulation. And he went out there in TV-land. He just made up names for a simulation problem, realizes that you don't really want to name your crack cocaine defendant with a name that turns out to be the name of some actual person. So you use either a film name or made-up name or name of a colleague – Elliott Milstein, for example, our esteemed former-whatever president of AALS, or whatever he is – and the dean of a law school, had appeared in some problems in whose textbook was it? Oh, Joe Harbaugh uses his name. All of Harbaugh's names are people that you know, if you're in teaching – one of the things that's so hysterical about it. But, anyway, I use my brother's name, stuff like that. But he used "Casablanca."

Anyway, we would create these problem sets where we could either bring in actors or occasionally use students with each other. And that way you can hone in on particular skills. You can have the witness be instructed to want to hide information about a particular thing. The lawyer has the task we're trying to find out about that. And then that's good for skill development. I haven't used the pretrial practice materials in a long time, but at Rutgers I developed a course on interviewing, counseling, negotiating, which is another grouped skill set that's often put together in one simulation course.

OGILVY: You were at Penn for about seven years.

KATZ: Right, exactly seven years, because – minus a semester – well, actually plus a semester of maternity leave. Penn at the time had a rule that you had to be there seven years. You could be there seven years, then you were out on the supervisory – you don't know about this? They used to be three years. Now they have some three years – we agitated to get it changed to – I don't know if you want to talk about the status of clinicians, but we decided to agitate to get it changed to long-term contracts, sort of clinical tenurish kind of thing, more in keeping with Standard 405. What Standard 405 now says, I don't remember we even said at the time. Long story short: None of us kept our jobs after that. The people who currently have the jobs that we had are fabulous. They're great clinicians, wonderful people. Nothing against them, but it was a little struggle there. But I'm happy to have landed at Rutgers. I mean, that's the question if you're going through my resume, is why did I leave Penn, that's the reason – did not get that job.

OGILVY: I'm not quite ready for that, but we'll get there in a moment. I am now fascinated by the seven years out. That was written into the rule, or it was just like that?

KATZ: Absolutely, absolutely.

OGILVY: Do you know if it's still there?

KATZ: No. They created several positions for clinical professors, which are now the jobs that I and Ron and other people used to have. They do have some lines for clinical supervisors, which are the shorter term, but they're three years and out. So that's really – the three years you don't expect to make a career out of it. You have people coming in from practice, a break or whatever, and they go back and do something else.

OGILVY: How far into your tenure were you when that rule was adopted, the seven years rule?

KATZ: Oh, the seven year rule was there when I got there. Oh, yeah. I think they would have been hard pressed – I don't know – I don't think about that. It was there when I got there.

Now, the change to saying we're going to create – they created two positions for clinical professors, for which four of us were eligible. One person did not apply – three people applied. At that point I think I was in my sixth year anyway, so it was like, What have I got to lose? – you know, and I decided to try for that.

OGILVY: And do you have any idea what the rationale was for the seven-year rule?

KATZ: I could speculate, if you want me to speculate. My speculation would be that law faculty – this maybe applies to clinical (faculty ?) – law faculty are very jealous of

who they are. They are scholars of the law. They are like universities are traditionally a self-appointing and self-governing body, and people need to come to being part of that body through the method that they are supposed to come through; that is, being vetted by the whole faculty, be scholars, be somebody you're committed to for the long term to help develop their scholarship – all the above. Whereas hiring in the clinic didn't follow that model. They were looking for practitioners with a good personality for teaching and mentoring students. They weren't looking for scholars. And the idea would be not to have – they weren't the same, so why have them think they could be here permanently when they're not like us? I would say the faculty may have thought like that.

Standard 405 is trying to address those balances, but I think one of the reasons that we're addressing those balances and making that more equal is not just because we just think they should be, but because clinicians have acted a little bit more like regular faculty anyway. We have been doing scholarship, we have been thinking deeply about our fields, about both our pedagogy and the kind of cases we're doing and so on. So I think we look a little more like them anyway. So things have changed in that regard. But – and I guess that might be the reason, and not wanting sort of back-door entrance into the holy sites of just the faculty. But I wasn't there when they started that. I don't know how that was.

Once they changed them three years to seven years – they had three years – once they

changed from three years to seven years, already people were there quite a long time and really had a commitment to the institution and a real commitment to teaching, so that it began to seem unreasonable to not do that – and other schools were changing. So that's where the drive came to feel that we really – "we," I say Penn – really should change.

OGILVY: That's what seems somewhat strange to me. I can understand the three years and out, but a seven –

KATZ: Seven, where do they come up with seven? I don't know.

OGILVY: Over the seven years, any reflections about how your teaching changed, how you thought about teaching? Your approach to pedagogy?

KATZ: You know, that's pretty hard to figure out. That would be '86 to '93, and it's a while later than that. I don't – I believe I've matured and gotten more comfortable with what I was doing. Exactly and how I'm not really sure how to put that.

OGILVY: Any changes in the way you approached the classroom portion of it?

KATZ: Not that I can think of right now. I think I had more of a wealth of material to draw on from other students. I think as my teaching experience went on I got more

comfortable with the unplanned moment and with the candor about what I know and don't know. You know, you get more comfortable with what you don't know as you get more mature. That would be one thing I can think of.

OGILVY: And so you crossed the river.

KATZ: I crossed the river, as we would say in Philadelphia, yes.

OGILVY: And what sort of position did you take then?

KATZ: Well, I was, as I say, in the last year at Penn we were competing for our jobs. I also was looking around and saw, again through networking – and now – and I think I called some people I knew at Temple Law School – anyway, I got the word that they were looking for an externship director at Rutgers. Now, they had had a person, Manya Kamerling, who had established what they called then the Clinic in Law program, the clinical – their only clinical program was external. And Manya had developed it very well. She had apparently been at the – she may have been at the Albuquerque conference as well, because she had a lot of materials from there in her office when I inherited it. She had been working part-time, and had developed this program from nothing to a very well-established program. The ABA site inspector said they really needed somebody full-time and faculty and committed to being faculty and so on – was the right way to do it. And she did not want to go full-time

and was ready to retire. So she was leaving and happy to help find somebody else to do it. So I came in to, as I say, a pretty well-established program, and tinkered with it a little bit.

OGILVY: What was her name?

KATZ: Manya Kamerling – K-A-M-E-R-L-I-N-G. And so I came in. The package was that I would run the externship program, including the classroom piece, unless I wanted to hire adjuncts for parts of the classroom piece, as I had no problem getting a budget to do that, and also to teach one course a year, which was going to be interviewing, counseling and negotiating. And that was a course they hadn't had before. It has been taught – at that time it had been taught at some other schools, but it hadn't been taught there. So there were some texts out – I think I probably used every text that's been out there by now. And so I developed that. And actually Doug helped me with that. Doug Frenkel, who had mentored me – one of your questions about who were mentors – he had helped me learn about teaching at Penn, and he was a consultant on developing the ICN class for the first year. And I still ran things by him for a time after that.

OGILVY: How many students were involved in the externship program?

KATZ: Well, externship – let me just say there's different kinds of externship programs, as

you know as well as anyone. This is an externship program with unlimited numbers and quite a large number of placements. And I tinkered, dropping some placements, adding some. At the time we had no – well, they had just started the Civil Practice Clinic actually just six months before I was hired, and I don't know if you'll be talking to Alice Dueker about that. But, anyway, we had just started the – I had known about that opening, but I thought starting a clinical program from scratch, I wasn't sure I was ready to do that. The clinical program had just started, and when I say "clinical program," there was one faculty member, there was no office space. Students were using phones in her office. And three or four months later, whatever, at the end of that semester, I started with the externship, which was our major clinical program, so it's a little bit larger than Alice's. But there may have been four or five students in the Civil Practice Clinic. I had about 80 or 90 students out in externship placements which were a year long. And that has evolved – as the in-house clinics have grown, and possibly from improving standards a little bit on the externship side, I have a little bit more moderate numbers. But it went up and down. At one point one year I had 100 students. That was – I predicted it – when the entering class had too big a yield, and we had a large number of students, by the time they're third-years I'm going to need 100 placements. I better start working on this. And I was right. So I have to say I did that well.

Right now I have – just to fast-forward 12 years – about 25 students that are in full-year programs and just in round numbers 20 to 25 in the fall semester and in the

spring semester, and then some in the summer, so a total during the year of 80 students say, 75 to 80 students spread out over the year, but mostly during the school year.

But going back to '93, at the time it was one large externship program with many placements.

OGILVY: How was it structured in terms of the pedagogy?

KATZ: Well, there's a classroom component in which I divided them into civil, criminal and judicial, which I still do when their numbers are large enough. The judicial – who was teaching the judicial at the time? Now I can't remember, but for the last six or seven years I've had a person who's a very interesting, qualified person. She's a permanent law clerk to one of the federal judges, as well as a legal writing instructor, Patricia Legge, Patty Legge – L-E-G-G-E – she's actually here at the conference, or she was yesterday -- doing a classroom piece that involved visiting judges coming in to talk about different things. Rutgers is a half a block from the federal courthouse for South Jersey, and several of the judges are alums and so on, so we have a very close relationship. So that class actually meets at the courthouse.

Criminal seminar was at one point run by a practitioner from Philadelphia, and is now run by a prosecutor from the Camden prosecutor's office. But she focuses on

issues in the practice of criminal law: Is setting bail really fair to poor people? Is profiling – well, she changes it every year, which not every adjunct does, frankly – what about racial profiling by our state police that they're accused of? What do they say are the pros and cons? What is life like practicing criminal law? And she has them reading stuff by defenders and by prosecutors. So she has a very interesting session.

And then I have the civil seminar, which I think as everybody in externship knows is difficult to organize because you're doing so many different things. What I try to do is focus on what is the task of a lawyer in a setting like the one I'm in, and how it reflects a combination of skills. What are the challenges of being a lawyer in that setting, using examples from the setting? Now, no matter how I try to explain that, there are students who do a show-and-tell: "This is what the IRS is like, and here are the different agencies." But an example of the students who recently did a class presentation that really got it, I had three students in the class who were each at hospital general counsels. All of our placements are public sector, mostly government, but there are some – this is public sector, but we don't have private law firms or anything. Three of them are in hospital general counsels. And just one other footnote: Camden is located across the river from Philadelphia. It's one large metropolitan area. So I have placements over a very large metropolitan region with lots of things going on. I could get a dozen students in hospital offices if I could, if I had the students or if I could get the counsel to do it. The placements are out there.

They did a presentation on this question: What should we do – what should our policy be about accidental needle-stick injuries to health care professionals? And they were able to show the different policies that are implicated and the different people that are implicated. If you required mandatory testing of the patient for disease, are you allowed to do that? Can you make them do that? If you do do it, do you have to tell them? What if they don't want to know? If you don't do that, do you provide minimally – you think you need to provide prophylactic care to the health care professional? But that's, to say nothing of expensive, it's dangerous. Some of those medicines are very potent. What is the effect on equal employment opportunity if you have pregnant health care professionals exposed to possible needle sticking? – et cetera. So they were really able to show different impacts on the lawyer's judgment, different factors affecting the lawyer's judgment different, laws that had to be taken into account, and so on.

I had another student at a legislative office for – the state senators' offices are across the street from our school. How can we prevent drug dealers from using money they just made five minutes ago on a drug deal for paying – using that money to pay their bail? What kind of law would prevent that? Is that really what you want to prevent, or what is it you're trying to do? And he passed out a draft of a law that had originally – they started to work with, put students in the class in a role: You're the cop, you're the neighbor on the street, you're the defense attorney, the prosecutor the judge – what do you think about this law? And it could illustrate that you could

think, This is a terrible problem, spin out a law and write a law that really isn't going to work, it's going to make other things worse and so on, and then showed how they came up with the final version that actually was more effective. So that's the classroom piece.

I believe – and everybody has different views on this, and there's different ways to structure this – I believe that the classroom piece should only enhance what they're doing in the field. I think what they're learning is in the field – that's what's different about externships from other parts of law school. And the classroom piece is not a stand-alone class. Now, there are people who do very good work. I think Golden Gate is a little bit like this – maybe you'll speak to those people separately, but where you have – you could have a class on let's say juvenile justice policy and send students out for a certain number of hours a week to work in a juvenile justice situation or in special ed cases or in child welfare cases – something related to juvenile issues – bring those experiences back into the classroom, but the classroom could stand alone, but external experiences are enhancing what they're learning in the class. And I'd like to see more of that throughout law school. I'd like to see students who are learning about family law go out and talk to marriage counselors, and go out and meet people – there'd be privacy issues, but there might be ways to do that. And my personal program – I'm not saying this is the only way to run it – is really organizing around the idea that they're out there to get experience. My classroom piece does not have a separate credit, it has a modest syllabus. It is really designed to

help them think more. It is a part of the reflective piece connected with their fieldwork experiences, which is where the main thing is going on.

In addition to the classroom piece, I have them journaling, and writing journals every two weeks, unstructured. They almost never get – every once in a while I send out an e-mail about some topic that I'd like people to talk about, based on things that I'm reading from other students' journals. The first journal is about goals; the last one is about evaluation. But mostly it's unstructured. And, again, the results vary – depend on what they do. I have found that if I respond to the journals – I read them, I send them a note using e-mail, a couple lines, reflect myself on what they're saying, ask some questions. And that helps deepen what they're doing. And this goes back to my first scholarship piece was about journaling, and you know this because you very kindly read and commented on my article. You were writing something related to that at the same time. And where I found that – I seemed to get a good response when I was writing them notes. They responded to the notes often. There's scholarship on that, on the fact that people – I mean, it makes sense, right? – they know you're reading it, they respond. It makes a difference. And people commented – students have commented, "I'm really glad you read this." "I never realized you read it." Or, you know, "I'm glad you read these. Appreciate that." But I often end up with an e-mail dialogue, which even with 45 students is not a big deal. I mean, it doesn't take that long. So, again, it varies. Some students will be very much show-and-tell, and I try to ask them some questions and get them thinking. I used to

be very – one thing that's changed about my pedagogy is that I used to be more critical or judgmental or something. If somebody didn't write much, I'd say, "Why are you writing so little. Tell me more." People don't respond to that very well. Again, you do better by saying, you know, if someone's given me four facts and no reflection, I'll reflect on one of the facts, you know, "I wonder why that happened." "I had a case like that, blah-blah-blah" – or whatever. And then they begin to recognize what it means to reflect. And some people are never going to be reflecting sort of out loud or on paper, and that's who they are. I'm not there to change every student into wanting to write diaries or whatever. But I got some amazing stuff from people. I had students who wrote about – well, I found the criminal law students write the best stuff, because they have very powerful stuff that they're seeing. What's going to happen – the one guy who didn't write his journals until the end of the semester, and I was like – finally he just seemed to have stayed up for several days writing this long, long thing. He says, "I know I didn't write my journal. Let me write about four kids that I represented" – or that he prosecuted, I don't even remember. I think it was, "four kids I represented during the semester and what I think is going to happen to them, based on who showed up at their hearing, did they have a parent that ever showed up?" And so on. And it was really very powerful.

One kid who turned out – one young man, I should say – I'm old enough to be their mother now, so they're kids – you know the feeling. One young man who again sort of postponed writing any journals, but it was partly because he had been – he had

chosen to work in domestic violence the whole semester at the prosecutor's office, and he said – in a nutshell, "Now I can do something about this kind of a problem." So had there been a family issue, I don't even – but he was writing about a – what he wrote about was how a lot of prosecutors didn't like these cases because the women would not be cooperative victims – you know, crime victim/witnesses. They would drop cases. All crime victims do that from time to time for various reasons. This particular set of crimes really irritated people that they did this, I guess because there's nobody else who is going to prosecute. You know, one mugging victim doesn't follow through the next mugging victim of the same guy will follow through. This is the only way they're going to get this guy. And he had such an empathy for why it was so hard for these women. Between that and another remark that he made, made me think there was a whole background. So, anyway, the journal piece I think is very helpful, and that's part of the pedagogy as well.

Part of it also is just getting them placed correctly. I don't meet with every student, but I try to get some information about why the student wants a placement. I know the placements pretty well. I try to get them in a place that's going to help them in their personal development, in their career development, and try to emphasize that.

OGILVY: Do you journal yourself?

KATZ: Not about my teaching. I've been doing it about my travels recently. It would be

interesting to do it. Have you done that about teaching?

OGILVY: I have been the – (off mike) –

KATZ: Because you've written – you're the premier – you're the king of journaling.

OGILVY: And the follow-up article was going to be about my own journaling, but I just never sustain it. I don't know what it is. So I have empathy for those students.

KATZ: Now, I could make up a reason why there would be a privacy issue or journaling about what I'm doing teaching, but that's not the way – I never – but I have done it about traveling. We've kept family – a couple of us have journaled about traveling, and that's very neat. And I think what I've learned from that is that when you read it later you can remember things that you would otherwise definitely forgotten about. Even the writing process you remember things. You start to reflect on why was that a cool thing to do. And you might have thought about it. I don't know that you're putting out stuff that you didn't think about, but it's a fleeting thought.

OGILVY: I think the piece needs to be written. It hasn't been written.

KATZ: About journaling about teaching – that's interesting.

OGILVY: I was curious. You came to Rutgers in '93 and you said that it was at that time a fledgling civil practice clinic was just starting.

KATZ: Right.

OGILVY: Rutgers had a history of clinics that came and went, do you know? Or was it a very late development of clinics?

KATZ: No, I don't think so. They started with the external clinic in the mid-'80s. No, that's wrong, it was earlier. They had started it informally earlier than that, and then it got more developed later. No, I don't know. I think they did have clinics.

OGILVY: Live client just didn't take root?

KATZ: Well, you should probably explore it with somebody who knows more about that. I have actually some old materials in my office somewhere about it, but I think they're – there are papers that were left in my office that showed faculty reports and studies and so on going back to the early '70s trying to get support for the clinic.

OGILVY: Have you done a history of the clinics at Rutgers?

KATZ: There's material, like I say, sitting around. I haven't personally done it.

OGILVY: You're one of the I'd say few people I guess – I don't know how many; I'd like to know – that have done both live-client and primarily externships. How would you compare/contrast the two styles, if you could call them styles, your experience with them?

KATZ: Well, they're both very valuable. What can I say? Let me start with what I've experienced with externship, and this sort of – you might want to just sort of put this out there and deal with it later, if you want to, about clinical, you know, where clinical faculties are going. I have had time to do scholarship since I've been in externship. I don't know where the clinicians would have the time – I mean the in-house clinicians. You have to make the time, any time you're going to do scholarship, you have to make the time. You have to want to do it. I've tried to mentor some other faculty members. You have to pick a topic that you care enough about that you don't even care – you have to at least get into your head that at least at some level you don't even care whether it ever sees the light of day. Of course you do, but imagine that this never gets published. You still want to write it. If you don't feel that way, you're going to have a hard time finding the time. So that's my speech on that. But it has helped that I have more control over my time, that I don't have to go to court and so on. But that's just on a career perspective.

The experience is much more uneven, and it's possible to slide through a semester and not get confronted and evaluated as well. Actually, the last thing I wrote was

about evaluating students and not confronting them with their challenges and difficulties early enough, because I don't – the supervision is spread around. Okay? Somebody is supervising their case work. I don't look at the case work at all. Somebody is supervising their case work. I'm trying to get the reflective piece going and doing some other stuff at school. I think that has some advantages in terms of critique of what's going on institutionally, which Condlin has written about. I can critique to help the student develop a critical perspective on what they're doing, but I don't have first-hand knowledge of the data. That makes it a little difficult too. As far as – you know, a student can have a really terrific experience or they can have a less good experience. Now, they have to learn – I have to prep them to say, You're going to have to monitor and make sure it's going to be good. Let me help you with that. But I can't help you if I don't know what's going on. So that's one disadvantage of externship.

The one advantage is that students are working really in a real-world context. They're not getting cases selected for them and monitored for them and guided every step of the way. They really know what it's like to be in this context. So if their goal – they're not learning the practice skills as much as the whole context. So, for example, I mentioned the hospital students. They're in an office where they could be working on a contract and get a call where you have to drop everything and deal with a scientific misconduct case from the medical school or a patient's right issue or an immigration issue, believe it or not. Any number of things can come up.

Now, in an emergency situation you're not going to turn to your extern who has been there three weeks to suddenly answer the question, but they will sit in on the senior attorney and understand how they gather facts, how they reason through this, who's involved in the decision-making, what is the lawyer's role. And the attorney will probably involve them collaboratively – which is my next thing about collaboration between supervisors and students, how much is learned from that. What does the student think ought to be done? Let's work this through. And that's very valuable. And you don't get that in an in-house clinic. You do get some surprises, because you are working with live clients, no question about it. But the whole full, rich context is not available. So when the students have a career interest in a particular area, I think this is the best option. It's a great option. If you want to represent kids. Well, for example, we're developing a juvenile justice clinic, and there are a number of schools that do something with kids, because it gets grant money, the students love it because these are kids that are not much younger than them. They really care about it, and there's all kinds of issues that you can teach from it. Now I think in the in-house case you're going to really be able to develop the skill set, because you're going to pick cases that are going to go to trial or you're going to work with them directly. And what happens in an external placement is sometimes you can get fully exposed to the chaos of those kinds of agencies: How badly organized are they? So you learn – it's a different set of goals what you learn. It can accommodate more students too, externships, which I think is valuable. I think that's something worth considering. I have as many students as I get through my program as the rest of our clinical faculty

combined, which is another six people or something. And that's pretty valuable. I have students tell me that this was the best thing that they did in law school. Now, I'm sure the clinic students are saying the same thing. So I think it's a very valuable experience either way. But it's a little different perspective on what you can learn.

OGILVY: Are students permitted to do both?

KATZ: Not at the same time, but, yes, they do do both. One of the reasons I inherited a program that is entirely two semester, and one of the reasons I allowed some of them to be one semester is that I'd like them to be able to choose and do an in-house clinic as well as an externship.

OGILVY: Looking into the future a little bit, say at Rutgers and then nationally, where's clinical education?

KATZ: That was one of your questions, and I was saying, "Would I know? How would I know?" I'm not good at this. I guess I think something surprising will happen. I'm not sure. We have gotten ourselves closer and closer to traditional faculty status. Some of us actually have regular tenure with regular tenure standards. Some of us, depending on our schools, are happy with clinical tenure standards. I think that works better, which is long-term contract is where we are. Are we going to look so much like the regular faculty or some other new movement is going to come up that

will challenge us and say we should be doing things very differently? Are the other faculty going to learn something from us, and incorporate more real-life contacts and experience into their cases – into their classes? – a little slip there – which I think they should, if they possible can. Is the whole structure of law school going to change, so that you have a year, year and a half of intense theoretical study and then entirely hybrid courses where you have theoretical study combined with field work related to it? That's what I would like to see, but I don't know that anybody is going to work on that. I mean, it's not – we don't have the – the law schools are not structured to be very flexible about what they do as tenure and other things – kind of holds up any sort of radical change.

OGILVY: You've been – we have about five minutes left on this tape.

KATZ: Okay.

OGILVY: There's no limit – we've got lots of tapes, so we can go –

KATZ: I'm sure, but I don't know that I'm worth more than that – many people you're talking to.

OGILVY: You've been very involved in the I guess externship community, certainly through the section on Section on Legal Education. What changes have you seen since you

became a director of externships in that community?

KATZ: Well, lots of scholarship and lots of community-building, to which I attribute largely to the learning from more conferences – the two that we've had and the one that's coming up. At the moment this is being taped, we have one in two months, which would be you and the others who started that. That was absolutely critical in getting people together, and I think providing a forum and a structure, encouragement for scholarship. So we really developed a lot in that field. There's more people doing it, there's more people speaking out about the value. I think there's less feeling of threat or disparity between externship and in-house clinicians. I'm also curious are there other people like myself who have done both. I think there are, but I don't know for sure. I think there's growth. I think there's more acceptance by the general clinical community. There's a feeling – maybe a reduction of feeling that this is going to eliminate their jobs somehow. In fact, it's just going to grow and increase the interest in clinical education generally, is what I think is going on. And the growth in scholarship potential and places and opportunities has been a big factor. The externship conferences, and also the founding of the Clinical Law Review, which encompasses scholarship across the board about our pedagogy, about the subject matters we deal with, about our clients.

The direction I'd like to see us go more in is more of scholarship about legal practice. We've sort of beaten up – I feel like, although I'm still writing about pedagogy, I

think it's maybe been beaten to death. But that may not be true, so somebody else will come up with more ideas. But what do lawyers really do? I teach interviewing, counseling, negotiating. What do lawyers – and there's some interesting work being done on that, not just by clinicians – by legal anthropologists – various people have been studying in that field. Actually, business schools have been studying decision-making for decades, and that is reflected in the negotiation materials. So I think that's an area where I'd like to see more work go on.

OGILVY: Is there anything that we haven't touched on yet that we should?

KATZ: Well, let me just say very briefly there's a connection between the closeness that we had to students in the clinical field generally and how we see how they're reacting to the practice of law that doesn't happen in very many other places in law school, I don't think. I mean, we do have – I was on the Scholastic Standing Committee – so what I'm talking about are students who either are discovering what they really can do and how good they can be as lawyers, even though they maybe haven't done that well in law school; students who are discovering areas of practice that they never felt they would be interested in, never felt they would be good at, because they didn't have a chance. They thought moot court was – you know, that's what law is about. And then you get into a real court, they find they actually can do it much better than they thought. They also find out – you also run into students who are not ready for prime time. Maybe they are not even in the right profession. There's a connection in

what we do to student counseling, to functions with the dean of students – My very first year of teaching I had a student who was telling me stuff that got a little bit weirder and weirder about what was going on in her apartment building. And, you know, you'd talk to students about personal stuff. She was very stressed and stressed out, and I got her to go see the dean of students, and meanwhile gave this -- I said, "You need to go talk to the dean of students. Maybe he can help you with your housing problem" – which was what it was presenting as. And I called him and said, "I'm sending this student with a housing problem. I think she has a psychiatric problem. Please get it right." And I early on realized that – and it was very helpful to her -- but it continues to be an issue where we see students on a deeply personal level faced with what – really faced with the real challenges of practicing the law and personality and how that affects them. And I don't want them to think that I know about their – I'm grading them, and I have to maintain some boundaries. So that's where the dean of students or other counseling resources are the right way to go with that. I'm not saying we do that counseling, but I think we need to be aware of that, and I think we're a major front-line process in identifying students with critical issues that will affect their ability to practice law. So that's another area where I think we could probably use – I mean, we're using our intuition there. And, again, I don't think we can replace student counseling, medical services or the dean of students. It would be wrong to do that for all the conflict of interests that I mentioned. I think we need to be prepared to talk about that. Everyone runs into that.

Some people on the stand-up faculty also do that. I've seen – I've been aware from working on the Scholastic Standing Committee that there are people who say, "This student has been absent recently, and she didn't used to be absent. Please find out if she's okay" – to the dean of students. And our faculty, which is very collegial, very small, that kind of thing happens and that can be helpful. But that's an area where clinicians have made a big impact, because we meet with the students more commonly individually than a lot – and maybe other faculties should do that too.

Okay, that's the only other thing I wanted to add.

OGILVY: Thank you.