

**Transcription of the Oral History Interview with
Bea Moulton
January 7, 2000**

Hall: Bea, one thing we are starting off with, everybody is asking what their first exposure was to clinical legal education, so how you first directly became involved in it.

Moulton: Well, between my second and third years in law school – I graduated in ‘69 from Stanford – I worked for California Rural Legal Assistance in the Delano office, which was headed by Gary Bellow, then a legal services attorney. And I did some research for him which he really thought highly of. I was sort of commuting back and forth between Stanford and the Valley doing volunteer work for CRLA, but getting paid to be a research assistant for a professor at Stanford, so I was kind of dividing my time. But, anyway, he really was impressed with the work I did, so the following year when I got the Reginald Heber Smith fellowship as a lot of us did in those days, Gary asked for me to be assigned to him at the Western Center on Law and Poverty, which was
0:01:00 where he had moved to. He was holding down, as usual, two jobs, one teaching full-time at USC, and the other handling cases for the Western Center, which was located then at USC.

Hall: Bea, what year are we talking about?

Moulton: 1968 was the summer that I first started working with Gary as a lawyer, and ‘69 was

when I graduated and started working at the Western Center.

Hall: Obviously it was a tumultuous time in general. What was the climate at the law school at the time? Was there a lot of unrest or hunger to do the kinds of things you were doing?

Moulton: Well, you know it was – I had a very unique slot for a Reggie, because I was located in the law school. I didn't work out of the legal services office. I was just basically in a – what was a backup center, but Gary's kind of personal assistant on cases. So whatever his caseload was, I was just plugged into it. I didn't start seeing clients, you
0:02:00 know, on my own and so on. And there was a lot of [inaudible] around the Vietnam War, so some of our cases were First Amendment cases. The first complaint I ever wrote was against the Los Angeles Board of Parks and Recreations, or something like that, for refusing permission for a high school group to demonstrate against the Vietnam War. And I remember Gary giving me the assignment and saying, "So, draft a complaint, telling them on First Amendment grounds that they have to – we're going to go for an injunction. They have to let this group use the park. It should take you an hour tops," he said. And so that was the kind of assignment I would get. We had Title VII cases, we had little welfare cases that, friends of his would get him to do, a huge hodgepodge of cases. But a lot of them did have either a free speech, welfare
0:03:00 rights, kind of organizational focus – trying to help groups do things they wanted to accomplish in those days.

Hall: Now, within Stanford's law school itself, was there anything institutionally that you had either, like clinical programs or anything, to sort of encourage the work you were doing? Or was this something you found on your own?

Moulton: Well, strangely enough, growing out of my experience at CRLA in the summertime of '68, Gary and I talked about doing a lay advocate's handbook to help people assert their own rights. So I decided that I could make that a project at Stanford for a bunch of students to work on, since we didn't have anything going like that. And I actually started a little course. Jack Friedenthal, who was then a professor at Stanford, gave – I think I had 12 or 14 – I think I had 14 students. He gave each of them two units of independent study credit. He gave me two units of independent study credit for setting up the course. All of the students were placed in the Gilroy office of the CRLA, which was the closest CRLA office, but still a 45-minute drive or something from Stanford. And they all had to write a chapter in a handbook for lay advocates. So we were going to have 12 or 14 chapters on various topics. And then I sort of arranged for a whole series of guest speakers to come, and that was the classroom component; it was the people who were in poverty law practice. So, yeah, before I graduated I actually did probably the first four-credit clinical course in Stanford, just because I had the respect of the faculty and particularly of Jack Friedenthal who thought, you know, that it would be a worthwhile thing for the students to do. But that was just the beginning. But I remember passing Pincus in the hall when he was coming to talk at Stanford, and sort of somebody may have introduced me to him, but

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I knew that there was this guy there who had money who was kind of going to fund something. And I said, “Look, we’ve already got this thing going that’s sort of like what you’re talking about,” you know. So –

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Hall: So they didn’t actually take the money from Pincus, or – ?

Moulton: Well, I think they did the following year. But I mean mine – I was like preceding him by a year.

Hall: What attracted you to poverty law at that time?

Moulton: Well, I had been an English writing major in college, and graduated in ‘61 and – which is right at the beginning of the civil rights movement. And one of my best friends was an exchange student at Fisk University in Nashville when the sit-ins started, and she was jailed. She subsequently married a folksinger named Guy Carawan who’s the person who carried “We Shall Overcome” throughout the South, teaching it to groups of demonstrators and so on. So my first job after college was to go down to Highlander Folk School, which was an adult education institution working in the South where Guy Carawan and my friend Candie were living and connected.

0:06:00 So I started working in the civil rights movement in ‘61 and ‘62, and I think from that time on I was really committed to social causes and trying to do something about these huge societal problems we had. Highlander was a difficult place to work. I spent a

year there. There was a lot of tension. We were firebombed. I mean you – we were thought of as a Communist training school. In fact, the two hundred acre farm where I began my work that year was confiscated by the state. We moved to Knoxville, set up again with this little handful of people and started over, you know, started doing exactly what we had been doing. But it wasn't a great place for the long haul. You know, I was working as an office manager basically. So I went in the Peace Corps. In the second year of the Peace Corps my roommate was a woman who was extremely articulate. She'd been a debater. And she told me that women could be lawyers, you know, and I hadn't known. I hadn't realized that. I knew no lawyers at all. I certainly knew no women lawyers. And when I came back from the Peace Corps. in the Philippines I began to think about law school, because I was asked to speak about the Peace Corps several times, because I was one of the first people back. And so I would go address some group, and I realized that if I knew my subject and cared about it, I could talk in front of people, which I'd never thought I was able to do either. So I applied to law school a year or so after I came back. The job I had just before I went to Stanford was with one of the first OEO neighborhood service center projects, an OEO grant to San Diego to run a couple of employment education – homemaker, life skills kinds of centers where we were working in the African American community with one and the Latino community with another. So I just – it was kind of a progression of finding out I was more and more interested in those problems and feeling that lawyers could do more about them.

Hall: One of the things I want to ask you is, in the years before the clinical programs began to take off at all, there was already a lot of debate and dialogue as to whether the traditional law school method really did as much as it could to prepare people, or even be relevant. You had already obviously come from a lot – you had civil rights, and you had done social consciousness work on your own. When you made it to Stanford, did you feel like it was a welcoming environment or did you – ?

Moulton: Well, I mean, I think the biggest factor in going to law school as a woman in those days was that there were so few women. And I hadn't real – I didn't see that coming either. I mean, I was basically very naive going into law school. I went to Stanford – there were seven women in a class of 156. They had a small section program, and instead of putting all the women in one section where they would have some contact, they divided us up. So I was the only woman in my small section. And the guys all lived on campus in the dorm, and the women were left to find housing for themselves off campus. Of course we didn't know each other, so we hadn't hooked up with each other to do that. So it was an extremely isolating experience. I mean, I studied totally on my own. I didn't learn any of the lore about how to study, what briefing a case was or any – there weren't the kind of aids even to sort of help you figure out how to do law school in those days as there are now. So that was why it was so unwelcoming to me. Of course the methodology was frightening, and not at all accommodating and welcoming either. But, you know, there were still "ladies days." There were still all kinds of things that were directed at women that made you feel like That's my

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problem. It's not that there's something wrong with law school; it's that they don't like women. They don't want us here kind of. So, you know, it's only later that I really developed a perspective on sort of how harsh the methodology is for everybody, or was for everybody, and also how limited it was in terms of teaching you what you needed to know as a lawyer. My first summer I'd won a LSRRRC [Law Students' Civil Rights Research Council] grant and worked with Marian Edelman and Paul Brest. Marian Wright, who's now Marian Wright Edelman, and Paul Brest and his wife Iris – and Paul subsequently became dean of Stanford. He was my supervising attorney at the Inc. Fund in Jackson, Mississippi. And that's what sort of made me able to go back to the second year of law school and say, yes, there is something to do as a lawyer. You know, it's worth going through this, to come out of the other end with a law degree and be able to help people the way Marian and Paul and Iris are doing.

Hall: If I guess I might ask, what is it about their work that gave you that kind of confidence?

Moulton: Well, Marian was an incredibly productive – you know, she's always been a charismatic kind of figure. And she was handling a lot of major trials. But at the same time she was working very closely with Bobby Kennedy in particular, as a senator. And that's – I don't know if she met – I think she met Peter, her future husband, at Yale, but he was an aid to Kennedy in those days. So, there was all this connection between Washington and Jackson on terms of trying to end hunger and

affect legislation for children, and affect welfare benefits and so on. So I just saw really important work going on, and I was able to be a really significant part of it. I drove around Mississippi talking with witnesses and so on. I saw some trials and depositions. I did some reports that were – I don't know that we had faxes in those days – I don't think we did – they were shipped up to Washington overnight, you know, bussed or something, to be used in these Senate hearings and so – and so I remember doing – Marian being particularly impressed with these bar graphs I had developed to show the disparities between the way poor black children were treated in Mississippi and the kids in the white schools and so on. So it was clearly a place where a lot was happening. And a lot of it seemed really meaningful.

Hall: You mentioned you felt isolated by virtue of being a woman. In terms of your interest in social activism, did you feel at all isolated about that or were there a lot of kids – ?

Moulton: There were a lot of – there weren't a lot, but that was my – my little reference group was the LSCRRC chapter. I then went back to Stanford after the summer in Mississippi, and was head of the LSCRRC chapter from then on – that year and the following year. And one of the projects that I helped start, because I met a couple of people through draft counseling – and I met through the draft counseling project some of the most activist people at Stanford, a couple of them who had turned in their draft cards and were risking going to jail and everything. But we did that project. The dean called us in at one point and said that he – this is Dean Bayless Manning – and said

that he was having nightmares about Stanford law students being arrested at the Oakland train station blocking trains – and would we please stop what we’re doing. And we said no, we’re entitled to do this. So, it was fun. I mean, we felt like this little band of people who could see clearly and others were just confused. And so it was – they were really kind of exciting days to be involved in those issues. I think the thing that made it possible for me to get away with a lot of what I did was that I was also on law review. I’d made law review on grades. I was writing articles in my area of interest – you know, school desegregation and consumers, low-income consumers’ treatment in small claims court. So the faculty didn’t know what to make of me. I mean, I could both sort of do their game, and yet was also a real activist doing these other things. And they kind of just had to let me go, you know, let us go. I mean, there were a number of us in those days who were like top students but who’d also felt really strongly about social issues.

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Hall: By the time you left Stanford, was there any form of clinical program, or was your program that you put together basically the closest thing they had?

Moulton: I’m sure that was the closest thing. There was no credit for going off and doing things. And, as I said, we had to use the independent study method to get the credit. But who knows? If we had taken it to the faculty for a vote on whether we should do this for credit, it might well have lost. So in a way it was a backdoor way to do it. It was maybe the only way that it could have been done until, you know, Pincus came

along and began to affect them and have them do some – I think they did some kind of farm-out programs initially with the money they got, although I really don't know for sure.

Hall: Tell me a little bit about Gary in those days. What were his activities, and what were your impressions of him?

Moulton: Well, he was [inaudible] – I'd had this exposure in Mississippi. He was the most dynamic, energetic poverty lawyer I had met – and I had met some really fabulous people in Jackson, Mississippi in 1967. He was into a lot of things. He was very involved in the United Farm Workers, even though it was kind of a condition of CRLA's grant that they not work directly with the United Farm Workers. A lot of stuff was going on where CRLA was doing anything it could to sort of foster the objectives of the Farm Workers working behind the scenes with them on joint projects, even though the joint projects couldn't be done, say, with the funding they were getting. So, he had a theoretical perspective on what he was doing that was unusual. It all fit into kind of a long-range political agenda and so on, in a way that other people I don't think thought about. And, he – you know, he was charismatic. He attracted people he met, so if you were working with Gary, as I did for four years or so, you met all kinds of interesting people who were attracted to that quality in him and his personality and so on – and his wisdom. He would – people would come to him for advice. So he was like the center of a little movement in a way. And I was

drawn in just like everybody else.

Hall: Now, when you left Stanford, did you – you said you worked for CRLA for awhile, or

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Moulton: I was a Reggie, so I had a month's training at Haverford College in Pennsylvania.

And there were a number of us from California who were taking the California bar at the end of July, and I think it was most of the month of July that we had to be in

Haverford. So we all got together and listened to tapes, you know, at night while we went – you know, we had gone to the classes during the day for the Reggie training,

0:17:00 and then we would study for the bar at night. And we went back and most of us passed the bar, thank heavens.

Hall: Excuse my [unfamiliarity]. What is the Reggie training?

Moulton: Reginald Heber – there were Reginald Heber Smith fellowships made available through Legal Services for, I don't know, a 10-year period or something. I think they started with the class of '67. I was in the class of '69 – there were 250 of us in my class. I think it went 50, 100, 250, some – a progression something like that, an increase in the number over time, and eventually it leveled off more. We were identified. We were going to be change agents, essentially going into legal services offices with specialized training, handling either law reform cases or helping with

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organizing efforts in the community, not to be sucked into the individual service caseloads, but to be the kind of long, broader vision people, the people who came in and worked at larger objectives and institutional kinds of reform issues and so on in particular communities. And so Reggies were assigned all over the country. They generally got to negotiate their own placements, and programs would request Reggies and – and certain areas of the country were really highly desirable – you wouldn't always get your first choice. So, as I say, the match – I was assigned to Los Angeles to a group of maybe 10 or 11 Reggies that were going to Los Angeles – I think there may have been as many as 18 or 20 going to Los Angeles. But once I got there, I found out that I was going to be working with Gary specifically, because he had enough clout with Legal Services Corporation, or – it was then an OEO kind of thing – to sort of get whichever Reggie he'd wanted.

Hall: Okay – now, how long were you in legal services? And one question I guess I specifically have is: was there any overlap between legal services and the clinical legal education movement as it started growing?

Moulton: Well, I mean, I think that the overlap was built in, and that Gary was one of the
0:19:00 leaders. And he always told me that one of the reasons he wanted to start this new kind of education, which he had already begun at USC when I joined – and he'd been there a year and I came in his second year in teaching – was that he had found that working with young lawyers and legal services that they really didn't hit the ground

running. They didn't know how to lawyer when they got out, and a lot of time was consumed in trying to get them up to speed and give them the training they needed. And he thought that it had to be done in law school. He said big firms have been doing this for years. They have ways of kind of breaking people in, usually just by having them go around, second chair and sit in on things. But we don't have the luxury of doing that. We have to have people who come out of law school able to go in and help. So to him the connection was really clear, and I certainly bought into that too, having had the same background, caring about the same things that he did.

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Hall: Now you say you were helping as an instructor at USC. You felt in the clinical program –

Moulton: Well, I was supposed to be working on cases. I mean, that's what I was getting paid to do. But I got drawn in more and more. I was there for two years, from '69 to '71 basically. And the first year I probably did work mostly on cases, but I would attend his classes. He was teaching a Civil Litigation class. By the second year I was there we had a clinical program going off the whole clinical semester. And Earl Johnson, who had been a friend of Gary's in Washington – do you know who Earl Johnson is? – he was head of the Office of Economic Opportunities' Legal Services Office, and wound up at USC as a professor for a while, and is now judge on the California Court of Appeals, and has written an early history of legal services and so on and has been very, very involved in this work all of his life in whatever position he was holding. So

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he and Gary basically were starting this clinical semester placing students in legal services offices, having a very intensive classroom component, and hiring with what I suppose was CLEPR money supervising attorneys who worked in each of the legal services offices supervising students, but then also participated in the classroom and had some kind of quasi-faculty status. And it was a really interesting group of people, some of whom had been CRLA lawyers obviously before they went to USC. So in my mind clinical education kind of grew out of that legal services experience and was started, at least where I was, by people who were legal services lawyers and were going to maintain that connection.

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Hall: Tell me a little bit – I mean, obviously that program was very much in its infancy. What were your overriding memories of that USC program?

Moulton: Well, I think it was tied in – the classroom component was probably some substantive law in the areas that the students would be working in, probably welfare, employment, housing, and then a lot on civil litigation, sort of how does – everything from interviewing clients to drafting and so on. But, we were just beginning – I can't even remember if we were using videotape then – I know we used videotape when it was the first year at Harvard when we went there, but we might have started to use videotape, say, the second year at USC. In the fieldwork, the students, as I say, with the clinical semester, I think they were getting 15 units of credit. So they were working pretty much full-time in legal services offices under the supervision of these

0:23:00 very good, specifically hired supervising attorneys. And I imagine that they had – I'm not sure – I would guess four cases each or something like that – four to six cases each, and that they would probably be able to close a couple of cases and open some new ones during the semester. It was not the model of just one case very intensively lawyered. There was definitely some focus on providing service though through student/supervisor combinations. And I'm sure that the program had been sold to legal services programs on that basis that one supervising attorney with six students or whatever is going to be able to handle more cases than just one supervising attorney, so it's worth your putting in the phones and the secretarial help or whatever it was that was being contributed by the offices.

Hall: And in terms of the educational experience, what – looking back, what would you say its strengths and its weaknesses were the way it unfolded?

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Moulton: Well, I think we probably were overly ambitious in the amount of – that we expected people to learn, but I don't really have very detailed memories of that, because I was looking at it as more of an observer. I was still handling a lot of cases. Those were the years when I was working, you know, 12- to 16-hour days, because I would go to the classes, I would – I know I spent some time in the offices. I didn't – don't think I actually supervised students myself, but I can remember being in the offices when students were working there. It seemed to be a fairly good model to me, and it's similar to what we did at Harvard when we – Gary was hired away from USC after the

0:25:00 two years of my Reggie there, and I wound up going with him and helping start the first years of the Harvard program. There I was a supervising attorney, and I sort of wrote most of the materials that were used in the classroom when we had a couple of components. And there – I have much more of a sense of what was good about it and what wasn't. For an initial effort at USC, I think it was probably a fairly decent program.

Hall: Okay, well, let me ask you about at Harvard what was – you know, tell me about that, when you were obviously starting that one up from scratch.

Moulton: Yeah. Well, there's a thread that I should – before we leave USC – when I first moved down there from Palo Alto, I found an apartment in downtown LA, probably a 15-minute drive from the office – 10 – USC is located near the LA Coliseum, sort of – not South Central, but getting toward that direction. And so I was commuting back and forth. Both Gary and Earl Johnson, who were the co-teachers, were living out on the beach, Manhattan Beach, and I had gotten to be friendly with Earl and his wife Barbara, and I knew Gary and his wife Jeannie. They were kind of my best friends. So at some point I moved to Manhattan Beach, just because that's where my social life seemed to be developing. And Gary and I used to commute back and forth every day together and carpool, and the commute took like 45 minutes to an hour. So every working day, you know, for about a year and a half, Gary and I drove back and forth to work together. And the thing we would talk about was lawyering theory. It was sort

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of like – even though I was working as a lawyer, Gary said, “Okay, so let’s say we’re teaching negotiation, you know. What do you think are the important things about negotiation that we have to get across? You know, okay, what – what would be an example of that?” And we began to evolve ideas about the content of the courses through all of those car rides and talking about it. I can remember – you know, he really wanted to use that time productively, as he wanted to use all time productively.

0:27:00 And so we had basically begun sketching out a set of materials. And so when we got to Harvard in the summer and fall of ‘71 we already had some xeroxes of things, the articles and so on, we had begun to sort of identify as kind of key components of lawyering and things that we wanted to teach and work on. So that work which really is one of the major parts of my Harvard experience really began at USC in these long discussions we were able to have. I never had the luxury of that much time with Gary again, because he was always very busy once he hits the office, right? But – so we had this kind of suspended time when we could really talk a lot about lawyering.

Hall: It’s nice to know that traffic jams can be productive in one way or another. When you made it to Harvard, what were some of those early seeds and things that you had wanted to really build into the program?

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Moulton: Well, it was very intensive. I think something that – I mean, there were beginning to be other clinical programs by then. I think the thing that made Harvard’s somewhat distinctive was that they had the emphasis on the classroom component. I can

remember getting to Cambridge, you know, let's say August of '71, having driven across the country, and I had something like three weeks to learn Massachusetts law and help Gary put together the course. I mean, I might have had four or five weeks, I don't know, but I did not have a lot of time and I didn't know Massachusetts law in the areas I'd be working in. And there weren't the kind of books in Massachusetts that there'd been in California – the how-to books in California are wonderful, you know. They're sort of like a book each like how to handle an administrative hearing – you know, there would be a thick book that'll tell you exactly what to do. There was nothing like that – and there was both on the substantive law and on procedure in California. There had been a couple of people who had just produced these wonderful practice volumes. So in Massachusetts you were kind of sitting down with the statutes, and thinking now, you know, okay, so how do these work, and how would you use them? And there was very little kind of written. But I remember really boning up on that quickly. And the vehicle we were going to use to teach were case files and simulated problems. And, we didn't – I may have put together a couple quickly for initial use, but eventually over the year I developed six teaching files – three for use in the main big class that Gary was teaching, and three for use in the little two-unit, two-hour seminars that the teaching assistants – teaching fellows – they were called CLEPR fellows – were teaching. So I had my own little section of eight students or something who were my supervisees to whom I taught Massachusetts substantive law using these case files. And Gary had a large classroom component of, say, 40 students that were five groups of eight, you know, using three other case files.

And on those case files the focus was on procedure. It was on skills like interviewing and counseling. It was on decision-making by lawyers. The files were developed to illustrate – you know, there would be memos to the file, ‘Well I don’t know whether to file in Superior Court or, you know, in muni court.’ “Here are the considerations that go into this decision” – I mean, there were file memos you would never write, but they really were meant to illustrate the lawyer’s thought process. It was about how to do these things. And so then we had these – so we had six cases, kind of going that the students would become familiar with so they could – they learned all of both the substantive law and the various procedural stages. I remember one file was pre-trial, one was sort of trial-oriented, and the other was appeal-oriented, so that you sort of saw the whole panoply of procedures as you went through each of these files. And there would be other files that were used in the seminars. One was welfare, one was housing, one was consumer or something like that, so that we really managed to cram a lot of information into the two classroom components.

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Hall: Now, was there fieldwork related with this program?

Moulton: Yeah. The fieldwork took place in legal services offices in Cambridge and Somerville. And I can’t remember – I know that – I think Gary was teaching both a civil course and a criminal course. I can’t remember if they both started the first year, or if it was only subsequent to my being there. I didn’t develop any of the criminal files, because I didn’t have that expertise, but some of the other teaching fellows did.

And the same model was working on that. And I think that Gary was the initial teacher of both the civil course and the criminal course where students worked in local either public defender offices or legal services offices under the supervision of people hired and paid by the law school with the money that CLEPR had made available.

0:32:00 And those people also had – we were, in addition to developing the case files, teaching the class and supervising eight students in the legal services office, I was enrolled in classes and getting an LLM. in that one year – and writing, and supposed to write a thesis, which I actually had to postpone. I mean I couldn't sort of get to everything. So there was a lot on our plate.

Hall: What was the daily workload like? I mean, if you could just describe a typical day in that first year –

Moulton: Well, I would get up first thing in the morning and go to the legal services office and spend, you know, five hours there or something like that. I'd be there from 9:00 to 2:00 or something, and then go to the law school. And you'd take a class or help teach a class or something like that. And then, of course the schedule varied, so some days I'd be at the legal services office all day. So, the – it was Harvard students – I
0:33:00 think it might have been harder if the Harvard students hadn't been so bright and kind of self-directed and kind of able to go in and, you know, figure out a lot on their own. But clearly, you know, you were there to help them at every turn. So you had to do the supervision part. I remember feeling that at least one of the supervisors was

having – hadn't learned the Mass laws, having difficulty with not being able to answer questions and would just sort of disappear, which meant that his students had to find us. And we would have to help them. So it was clearly that that was sort of our primary obligation, was to be a supervisor. But I was always – we always had to attend the big class that Gary taught, which I think was taught in a three-hour chunk each week. We had to teach our own two-unit seminar and prepare for that. And then we had to attend classes that we were enrolled in as graduate students. So it was again part of my 12- and 16-hour day period of my life when I really had to work every night, as well as – and weekends generally as well as every sort of workday.

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Hall: Was there an air of excitement among both the kids and the teachers of the – do you have sort of a sense of –

Moulton: Yeah. You know, there was a wonderful sense of being in something new, doing something that people hadn't done before. And even my year we began to have seminars for the teaching assistants on how to teach, and Gary was able to bring in people from the education school at Harvard. And that piece of it developed much more in subsequent years of the CLEPR fellowship program, but began even in my year.

Hall: As a teacher, or again [inaudible], what were your greatest challenges?

Moulton: I think motivating students who weren't very motivated. I mean, let's say I had eight

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students per semester that year. Seven, or six to seven of them, would be terrific, and come to me when they needed help, and were able to do a lot on their own – you know, very motivated and so on. And one or two would be, I don't know – had wandered into the course for the wrong reasons, didn't like the work, didn't like the clientele, whatever – were not, you know, doing their obligations. And I have always found, kind of dealing with the students who weren't very motivated – because it's not as if you could say, "Oh shoot, I'll just give the student a D or a C and let it go at that." I mean, they've got clients, so they have to do their work well, right? I mean you have to find a way to get the work done. And it's not acceptable to just kind of take it over and teach them that they ultimately are not responsible for those cases. They are. That's part of what they have to learn. So I think that was, and probably continues to be, one of the big challenges in supervising students, and in live-client clinics.

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Hall: In that first year or two, are there any cases that really stand out in your mind? Either for being very positive or being a major headache?

Moulton: Well, we definitely were handling a service caseload. With Gary, I had been, as a lawyer, handling this hodgepodge of incredibly complex, major cases, and then smallish kind of cases that he had gotten into and turned over to me. But we had very defined kind of service caseloads at-- I worked at the Somerville Legal Services

Office. So there weren't any— we weren't filing class action suits. I do remember some very strange cases. I remember one case where the student didn't show up for an interview, and I did the interview. And the woman had come in to get a divorce, and in Massachusetts in those days, it wasn't a no-fault standard. There had to be some misconduct — abandonment or, I don't know, adultery or something on the other party. And it turned out that she had been raped — gang raped by three guys. And the guy who was least culpable — she knew them all — it was, you know, they had been drinking at a bar together. The guy who was least culpable, who participated less, although he did participate, had a record. And his attorney had convinced this woman to marry him so that she wouldn't have to testify against him in the trial, and could testify against the other two. So she had married him and they had, you know, consummated the marriage at some point, although they weren't really living together, and she — now she wanted to get out of this, right? And there weren't any grounds, basically. I mean, there was — you know — we looked into annulment, we looked into divorce, and it was like very hard to figure out how to get this woman out of this marriage. So that case has stuck. And the fact that a criminal defense lawyer, you know, can do that ethically — there aren't a lot of limits on your dealings with witnesses. It was kind of shocking, you know.

And I had another student. There were in those days — I'm sure this has changed, but the student practice rule had existed for 20 or 30 years in Massachusetts, so it was kind of this anomalous rule that stemmed from a state supreme court case saying that

representing indigents in civil cases is not the practice of law. So anybody can do it basically – right? – because, you know, nobody else is going to do it anyway. It's not as if we're taking jobs away from lawyers. So there was no requirement that the supervising attorney's name be on the pleadings. The students signed the pleadings, although we always reviewed them and so on. Well, one time a student filed a complaint without showing it to me, and the reason was that his client had come in wanting a divorce and said that her – it was – adultery was going to be the grounds. Her husband was having an affair with a woman in the upstairs apartment and she could actually hear them at night and everything. It was driving her crazy. So the student went over, drafted the form complaint, went over to have her sign it and everything, and for some reason was able to see the upstairs apartment which turned out to be completely vacant. There was nobody – I mean, the woman was delusional. There was nothing going on upstairs in the apartment. He filed the pleading anyway, which then posed this problem for me. It's like – what were you thinking? "Well, she told me she wanted the divorce." Well, I know, but, there seem to be other circumstances here that are relevant, so that the fact – I mean, that was one of the students, again, who was kind of a runaway – I had sort of one each semester. And that student practice rule could create a real problem in that there was no requirement of supervision.

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Hall: What was Gary's thinking in creating such a heavy classroom component? I mean, it seems like you took a different approach in Harvard than he did at Southern

California.

Moulton: Well, in Southern California he had been trying to teach both the substantive law and the procedure like in one – with him doing everything. And he realized it was just overload, that he might be willing to stand up there for five hours and talk about it all, but students weren't getting it. It was just too much. And yet he strongly believed that you can't practice without knowing the substantive law, which I also agree with, and the whole goal of clinical education was to teach the skills. And we somehow hit on this method of using simulated cases kind of on our own, and that seemed to work. You could take students through each stage of the case and show them twists and turns. We began to develop videotapes that would illustrate this is how – Okay, now you've interviewed the client, you've done this investigation, you have this set of interrogatories, you have this information in the file, now we're going to do a deposition of so and so, so let's plan it. And they had all of that to work with, and they had the substantive law piece that they needed to know what their objectives were in the deposition in terms of what admissions they needed, or whatever – and it just seemed to us to be needed – that you needed to do both. I think we got a little too theoretical sometimes on game theory, or decision models or whatever in the classroom. I can remember Gary getting up to – he always loved charts and graphs and things, and drawing things on the board which were pretty incomprehensible to anybody but – I mean, I still think that you need that grounding in it; you can get it across to the students in some consumable form in both the substantive law and in

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0:42:00 each stage of the procedures in the cases they're handling. And the problem is that they need it all at once usually. So if you can control the caseload so that you're doing the early stages when they're doing the early stages, that's fine. But it's a very complex enterprise, I think.

Hall: What were the seeds of your book that you wrote with Gary?

Moulton: Well, as I say, the seeds were sowed in Southern California as we began to develop a set of materials, because there was nothing to – obviously some of the information that needed to be conveyed could be conveyed in writing and to have the students do it on their own at home. But there wasn't much – we began to discover that the practice literature was very simplistic – you know, rules of thumb with no kind of underlying theory about why you took a deposition in a certain way, or why you negotiated, why you said those things in negotiation, or did those things. So we had to start looking in other fields for an analysis of these kinds of interactions. And so we would go to psychology for having to interview clients. Game theory came in, and sort of negotiation. We had a hard time finding an analogy for investigation. We spent a lot of time looking at historical investigation to see if that was the parallel. And essentially we were trying to put together some reading so that not everything had to be done orally in the classroom, right? So that as we pulled those readings together, and sort of each as a major skills area, I began to have a fairly thick set of xeroxed materials. And those began to be the only thing that anybody sort of knew about. So

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we would ship out – anybody that was doing clinical education basically would get those materials as they developed.

Hall: Do you think at that point there was a real hunger on people's part for – ?

Moulton: Yeah. I mean, sort of everybody realized that, you know, first of all the practice literature was whole books that weren't very useful, and you couldn't really extract
0:44:00 things from them very easily. And I think they looked to Gary as being kind of a theoretician of the movement and as the person who was producing some classroom stuff that was fairly useful.

Hall: To what degree did your conversations in the car play out in the actual formulation of the book you wrote?

Moulton: A lot. A lot. I mean I think that one reason why we worked together on it was that Gary would be very good at coming up with kind of a concept of – I don't know , let's say developing rapport at a client interview or something. And I turned out to be fairly good at coming up with a concrete example of how that would work, so that I could write a little transcript in just five minutes sort of illustrating that concept he had come up with. So we sort of had different strengths. And most of the – I had only practiced for two years, and Gary had practiced for sort of five years in a criminal context and three years in a civil context, but really packed those years with a lot of

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work. So he had a much longer experience, and he had a lot more trial experience than I did, so most of the ideas came from him. But a lot of the ways to kind of convey that, to communicate that to an audience, came from me, because I was more in touch with it. I was more the audience. I was much more in touch with their needs in terms of being able to understand what he was thinking. So he would often ask me for like, “Well, how could I teach that? How could I illustrate that?” And I would be able to come up with that. And then he would use that in teaching the class, and then we would eventually use that kind of combination in the book. But I think the book also benefitted from the fact that it was begun at Harvard, and Harvard had these rich libraries that I had access to and Gary had access to. I can remember going to the libraries. Let’s say I go to the history section, and just pull all the historical method books off the shelves, you know. I’d have 20 books stacked on my desk, and I’d start

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going through them and say, “Okay now. Who says something in a compact accessible form about how people go about reconstructing the past?” And especially with a purpose in mind. We didn’t want this kind of neutral, don’t color it – how do you do it coloring it so that it supports a verdict for your client? And then I’d take three books that I found to Gary, and we’d kind of xerox an excerpt and use that excerpt or whatever. Those libraries were just so rich, and it was so easy to just go and just physically peruse what we thought might be relevant literature. And gradually we began to put together a reader. When we wrote about the lawyering process, what we had originally – but then was shipped out to people were just the readings. And sometimes it wasn’t too self-evident. We thought it was – about how

0:47:00 that applied to lawyering – you know, how this reading about psychology, and that reading from game theory, and this reading from who knows what else – how that all applied to lawyering some. The notes were the part that we had to kind of write as the years went by to kind of glue that together and say this is how this plays out in lawyering.

Hall: What was the rationale of reaching so far afield in so many directions?

Moulton: Just that we hadn't found anything written for lawyers that seemed to add anything to our understanding, or to the general understanding. As I say, to us it wasn't helpful to say to students, Well, here's some rules of thumb about negotiating: never make the first offer, always do this, never do that; if they ask you a question, here are different ways to evade it – you know, it's sort of like, well, okay, but like what am I trying to do? – What is the overall framework for this? And that wasn't spelled out for lawyers. It was spelled out for economists or business school students or something.

0:48:00 So we thought that the most helpful stuff we could find in those days was from other fields. It wasn't that we set out to do it, and said, "Oh, let's write this, you know, difficult interdisciplinary kind of book that people have a hard time figuring out." It was just like it seemed to us it was the only stuff that was available.

Hall: What do you think has been the impact of the book on – to the development of clinical legal education?

Moulton: Well, I'm not sure I'm the best person to answer that. I think the Foundation told me at one point they had sent out more free copies of that book than any other book in their history, so at least it was widely circulated. I think that teachers – I think you only understand that book – at least people have told us this over the years, and I think it's true – if you've practiced a bit and understand that it's not easy. It's not a book that's very good for students who are very new to it, and say, "What, I'm supposed to dig out how to interview a client by reading, you know, these psychologists? If I'd wanted to be a psychologist, I'd have gone to – I'd majored in that." So it's like – but somebody's who's been trying to interview clients and comes and does that, reads that chapter, and they've been doing it for a couple of years, says, "Oh yeah! So I'm – that's – I probably haven't been paying enough attention to that aspect. That's probably why I do" – you know – and it, and it would help. You sort of needed a base of experience, I think, to really see that, that these ideas from other fields were kind of useful. But most of the teachers have that base of experience, and they found it useful in their own thinking. But at the same time they wouldn't recommend it to students, because it was sort of a step ahead of students.

Hall: Are you thinking that it might have helped them reformulate how they approach their clinical teaching?

Moulton: I think so. Yeah. I mean I do think that people – I think that a lot of the books that have been published since – not Dave Binder's work. Dave Binder's work was going

on simultaneously, at the same time – but the Binder and Price book on interviewing and counseling, which to me is a whole different strain – but a lot of the other books that have come out since I think are fairly derivative of the lawyering process. Others may not feel that, but I mean the same readings, the same authors, are summarized. A lot of the same concepts are there reorganized. Negotiation is probably the place where there's been the most development, because I think in academics problem-solving negotiation is much more kind of approved and is kind of our aspirational mode of negotiating. I'm not sure that the practice has caught up with academia on that yet. I think there's still a lot of very positional negotiation going on, so that the lawyering process chapter, although it's very adversarial, still has – is needed information. I'd like my own students to know how to play that game, if somebody's playing that game – but that – to be aspiring to use much more holistic kind of problem-solving approaches in their own negotiation whenever that's possible. So that chapter is probably, as I say, wasn't – didn't set the limits on the rest of the developing scholarship. But I think a lot of the rest of clinical literature sort of started – had used the lawyering process as a starting place.

Hall: Bea, at Harvard my understanding is most of the people involved in the clinical program are not on any kind of tenure track. So I assume that was the case when you were there?

Moulton: Yeah, I don't know about the current situation. When I was there, we were teaching

fellows getting LLMs. We were in and out. I think you could do it for two years – I just did it for one. And at some point that – even that teaching fellows – the separate money either dried up, or they decided it wasn't a great model and they moved toward getting much more law school funding for the offices and having full-time employees rather than teaching fellows coming in and out. But that made it even less likely that the full-time employees of the legal services center would have faculty status – full faculty status. Now, when I was there, it was just Gary. Eventually, Charles Ogletree and others were hired to do the criminal clinic, and there would be an assistant dean, who was also not full faculty status, who kind of helped manage all the out-placement things and components of the program. But, no, it wasn't something – there was sort of nobody who would pass muster at Harvard except Gary in terms of being on the regular faculty.

Hall: And did you have any sense at all in terms of how this program was viewed by the traditional faculty?

Moulton: I didn't have much sense, because as a teaching fellow I really wasn't part of the regular faculty. I would get to know a few of them. They – I think Gary being who he was helped it tremendously. I think that he quickly won the respect of a lot of his colleagues. I don't think he was ever somebody who they felt couldn't hold his own on any of the issues that were discussed in faculty meetings and so on. I think he became a leader even among that faculty. So I think that helped. I mean, it's like this

is Gary's thing. If he thinks it's good, you know, it's fine with us. So it was kind of faculty autonomy was accorded to what he was doing.

Hall: Tell me about your own – as you moved into becoming a professor yourself. How did you make that evolution?

Moulton: Well, I began to – as I had failed it for some years, and I certainly failed it that year at Harvard that I was – I had just been too much a part of Gary's work. I mean, I needed to sort of go off and establish my own identity. It was the kind of thing where Gary was so popular and charismatic and hard to find that, you know, I would meet or run into somebody that would say, "Hi. Where's Gary?" – or, you know, "Hi. How's Gary?" Or it's sort of like it was never about me. It was always, "Oh, you're the person who has a lot of access to Gary, so maybe you can help me," you know. So, the legal services training program was just starting at Catholic University. It had started during the year I was at Harvard – I don't know exactly what the timetable was. And they were looking for somebody to come in and direct lawyer training in the country, especially new lawyer training, and sort of fill in the gap that wasn't being filled yet by clinical education between coming out of law school and starting to practice. So, I decided to do that in Washington and take the methodology we had developed. So I developed the first new lawyer training course. And by that time we really were using videotapes, so I shot the first new lawyer training videotapes in Washington and worked with a really talented group of people from all over the nation

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who both developed that training and then taught it in these national training programs. We'd go around on kind of a road show – three and a half days to turn you into a lawyer, you know? After that, I wrote – I realized that the trainers needed to have something to be able to say about interviewing, counseling, negotiation, and investigation and discovery, and that we couldn't expect them to read the classroom materials that Gary and I had put together, which were yea thick, you know? So I wrote about 45 pages on interviewing and counseling, investigation and discovery and negotiation, just in the narrative straight-out narrative, no borrowing from any other fields or anything, just summarizing all of the things we had learned about those things. And that began to be used in clinical programs. Forty-five pages was much more accessible to everybody, students and the like. So I know that those things that I wrote in that one year at the Legal Services Training Program also found their way into the clinic, as did the videotapes. I think even more important was that the case file, Quality Furniture v. Mary Joyce Allen, which was a consumer case involving the sale of a freezer that had a food plan connected with it and had – it had a client interview tape, it had a deposition tape. It had a negotiation, which has two different lawyers – two different sets of lawyers negotiating – Roger Wolf was one of them, who's still in clinical education – and I guess actually – no, that one just had one set of lawyers, Roger Wolf being one of them, and the guy from Williams, Bennett and Connelly. And then I have a trial tape, which was direct and cross-examination of the two key witnesses on each side sort of. And so the whole little packet was like a little kit for a clinical course in the civil area, and that really was used. And I think it

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probably had more effect on the methodology of the classroom component than the things we had done at Harvard, which by then were still kind of not pulled together into a useful form. So I developed that in '72 and '73, and that was used by a lot of clinical programs for about the next five years I would say. Then I had a number of inquiries. I didn't know about how you got a job in law teaching. I mean, I didn't participate in what was then called the "meat market" – I guess it still is. It used to be in Chicago at the hiring conference. But I began to just get calls from law schools, "Would you be interested in applying here?" – you know, "We've heard about you, blah, blah, blah." So, I – this was late – it was like March or something of that year, and I visited two or three schools, and the one that appealed to me most was Arizona State. It was just a really friendly group of people who made me feel really wanted and welcome. I would be a full-fledged faculty member and everything. They wanted somebody to head their clinic. And so I went after one year in the legal services training program where I'd travel all over the country putting on these conferences, and had actually written most of the training. I was able to go into teaching and take those materials with me and sort of do it myself in a law school setting.

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Hall: Okay. One thing I want to ask you is how you, just in your own perspective, would define clinical legal education. Do you primarily see it as an education method or sort of a social justice movement, or some combination?

Moulton: Well, I think it's a combination. I personally have much more sympathy for middle-

class clients than I used to have. I mean I think everybody's entitled to a good lawyer, and I don't think you – I think it's a mistake – in law schools, some law schools I think still do it, to have the clinics so social – so closely identified with poverty law or public interest practice that only those students attracted to it are encouraged to take or anything. I think you can really affect almost any law student, whatever their goals,

0:59:00 by a good clinical experience, and particularly by the exposure to poor people and their problems and their humanity. Even if they don't go into it full-time, I think it can pull people. I mean, I've seen people leave private practice to go into legal services because they realize as they get into private practice that their clinical experience was the most meaningful thing that ever happened to them, so they go back to it. Or they'll do pro bono work because even though they might stay in private practice they still realize that that gratification of working with somebody who really needs you, you know, can be tremendously meaningful. So, I really think that you need to kind of bill clinical education as being good preparation for everybody for being a lawyer in any context. And then the class has to reflect that, and the way you supervise has to reflect that – that you're talking about transferring – “Okay, what would be different now if you're in a corporate setting? Will this happen with a rich client?” – whatever

1:00:00 things that make them start to think of the applications in other settings of what they're learning.

Hall: Okay. I'm getting to the end of my tape. I have at least a few more minutes of questions. I'd like to take a minute to switch the tape here. Assembling the final

lawyering process book, how did you and Gary go about doing that?

Moulton: Okay. So, I went into teaching at Arizona State in the fall of '73, and I was seeing Gary – during the year I worked with legal services training he and I were in touch fairly frequently. And we began to talk about putting these materials that were still being shipped out, you know, all the time in xerox form into the form of a book that would be more useful to people. So we decided that, you know, let's do it. I'll be in Arizona, it won't be easy, but, you know, there's always the phone. We could ship chapters back and forth and so on. So, I began working on that book when I went to Arizona in my first year. Gary was doing chunks of it in Boston. Every summer I would go back to Boston for five years, from the summer of '74 through the summer of '77. I would leave Arizona, where it was going to be 115 degrees anyway, and – actually I did spend some summertime there – so I mean I don't know whether I'd go for the whole summer, but I spent a lot of time house-sitting for people in Boston and working in the Boston libraries and meeting with Gary. Maybe I'd only go for two months some years or whatever. But I definitely – during the school year I can remember a couple of years working on the book when I would work every day but Christmas or something. I mean it would be – and I was single, I could do it. I think if I'd married earlier than I did probably the lawyering process book wouldn't have happened, because it was such a big undertaking that you really needed to set aside most of your time for five years, you know, in addition to teaching and the other things you were doing, to get it done. Gary was even more busy than I. I mean, one

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thing about working with Gary is it makes you feel lazy because you're putting in a 15-hour day – he's put in a 20-hour day. He always had two phones or three phones at his house, and he would only answer the phone that was for family, you know, when it got to be stressed, because so many people would call him about things all the time, just for advice. I mean, he made himself seem like the world's most accessible person, but it meant that you really didn't have much access, because there were too many people making those demands. So even though he was like the only person that could help you with your problem, he would become very difficult to reach. Well, that created problems for collaborating on anything, especially long distance, because I couldn't reach him either once I moved away. So the summers were crucial about just communicating and sort of getting together what needed to be done, even if we worked separately. And Gary – and I did all of the mechanics of the book, because Gary was so busy he would stay up, you know, until 3:00 in the morning or something, writing out by hand on a yellow legal pad, you know, his notes for – to follow the reading here. And he would hand me the handwritten legal pad stuff, and that would be the end of his sort of obligation at that stage. And I could read his handwriting, which wasn't an easy chore, and I would get it typed too – at Arizona State usually. And then I would edit it stylistically, or if it wasn't clear or, you know, I would add in my examples that made it clearer or whatever. And then he would get back another typed copy with my editing to go over. And so that was sort of the way we worked. I mean, I did the initial notes on some chapters, but typically I would take a lot of Gary's kind of rough thinking on something and work it into something that

was more prose. It had illustrations – it seemed to me more accessible to people and so on.

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Hall: Did the spirit of the book evolve in any significant way from when you began it in '73 to when you concluded it?

Moulton: Well, actually at some point about the middle of that period is when we began to put in the ethics sections of the chapters. We had been trying to teach so much, you know, the substantive law in the class and the skills. The book was going to be limited to kind of the skills portion. And then it began to seem to us that you couldn't leave out the ethical dimension, that that was so integrally a part of being a lawyer and of exercising those skills in a responsible way and everything that we needed to do that as well. And so that had to be kind of added in. I mean, you'll see that it's separate chapters, and separate sections of each chapter, which were kind of an afterthought, aren't terribly integrated with the rest of the book, but were really necessary. And that meant that chapters – it was easiest to start with the skills

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chapters. So of course we started with interviewing and counseling. Counseling is actually separate. We have that kind of at the end, because we felt that you needed to know everything else before you could effectively counsel someone. You needed to know the negotiation stage, you needed to know about trials, you needed to know what would happen in discovery before you could really talk to people about their options in a case. So it didn't seem to us that it belonged at the beginning with

interviewing. But the first two chapters were the overview kind of chapters, introduction to the profession, introduction to the enterprise of being a student, learning about lawyering. And then the second chapter which is about the ethical system, the paradigm of zealous advocacy and so on, were really added – were written last in a way to tie the book together and give it more of a cohesive quality. So I think that is probably the major thing that changed from the materials that we'd been shipping out before that.

Hall: Looking back with, you know, some benefit applied to that, what are your greatest satisfactions with the book?

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Moulton: I think I'm just – all of the times that people have come up to me and said, "That book has been so helpful to me," you know, "It's a great book." I mean, it was almost never reviewed. There's almost nothing in writing about the lawyering process, just – I've only seen a couple of things. Mike Meltsner actually gave a nice little speech up at – I think it was at Vermont, or it might have been New England School of Law or something where they were trying to do kind of a general practice program. And he said this book is key to teaching people to be general practitioners. It was like the first attempt to really pull all of this together in a way that's helpful for lawyers. So that was nice. But I just had a lot of feedback over the years that people have actually read it, found it useful, and they liked the perspective, they liked the ethics, they liked the fact that it's in the context of public defender and legal services practice; that it has a

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very public interest kind of orientation. So I guess for something to be out there – those are all things I want to influence, and people’s ethics, people’s orientation toward helping the less fortunate and empowering people. So I guess that’s – just the fact that it’s had an impact, I think, is what’s important to me.

Hall: Is your old literature basically adequate now in your mind? I mean obviously there was a huge scarcity of training literature when you first undertook the book.

Moulton: Right. Well, I think there’s a lot. I mean, I still – I’m currently working on a book which is kind of a – not a diluted version of the Lawyering Process, but a much more accessible version of the lawyering process for students. I’m teaching a four-unit course called Roles and Ethics in Practice – and it satisfies the professional responsibility requirement at my school. But it also introduces students to skills and to all the different kinds of roles that lawyers play. So we expose them to criminal work, the criminal defense, prosecution, transactional work, corporate work, in-house counsel. In some way we’ve developed a whole bunch of videotapes that illustrate little ethical dilemmas in each of these settings and so on. So we’re really trying to say to students there’s a whole bunch of different things out there that lawyers do; they all pose different kinds of ethical problems. You’re going to be totally comfortable in some of those niches, very uncomfortable in others. You need to figure that out now. You need to take the courses in law school that lead into the kind of career that’s right for you. You need to know yourself well enough to know what

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1:09:00 you're going to enjoy doing. There's no book that pulls all that together in a single source. So that's what we're doing – something that is going to have more of a focus on ethics, but is also going to be an introduction to the world of lawyering, and to sort of the central tasks of lawyering. And I've used pieces of this or pieces of that or whole books at various times, but none of them feels quite right to me for what we're trying to do. So, there always do seem to be gaps.

Hall: What do you consider to be the major milestones in the whole development of clinical legal education from the '60s to today?

1:10:00 Moulton: Oh – well, of course, CLEPR funding was crucial. I think I actually like to think that both the Binder and Price materials and the Lawyering Process helped legitimate the whole enterprise and make it – and turn it into just another course kind of that – since other law schools did it, maybe we should do it too – that it was not just – it was no longer just a kind of subterranean effort by a few people to kind of get something into the law school that didn't belong there – that it had kind of the [inaudible] publishers, and the fact that the dean could pick up the book and look through it and say, “Hmm, well this isn't so impractical or nuts and bolts as I thought it might be,” you know, or whatever. It just gave a – so I think that developing some early – publishing some materials – was important. I still think that finances are a huge problem. I mean, I have been teaching a lot of simulation courses in the last few years, and that I don't think you can do everything in a simulation course that you can do in a live-client

clinic, but you can reach a lot more students. So I think there's a place for that. I think it's crucial to try to keep live-client clinics going in all the schools where they can be. But I do think that legal education needs to try to get to a place where every student is exposed to something other than substantive law, and has a real – has much more preparation for kinds of the public responsibilities of being a lawyer and how to do that well. And with integrity and so on, and a student isn't allowed to get through law school by just kind of focusing on profit and the law of business and sort of what substantive courses do I want to get?

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Hall: Actually, let me ask you this one bottom-line question. You know, early on when you were talking about legal services, your time there, you – there was the observation that – of Gary's – that kids were coming into legal services with degrees but not really – .

Moulton: – knowing what to do, right.

Hall: The ones who go through the clinics or simulation kinds of programs, is it your sense that they're discernibly more ready to hit the ground running?

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Moulton: I think so. I think that there's sort of anecdotal data that some firms like to see clinical experience now and do find that it's helpful, especially for certain kinds of jobs. But small firms and so on will look for that. I like to think that it really does sensitize students to the need for legal services across the board, and that it's an important just

piece of education about professional responsibility just to actually see that the people who you would like to be able to write off as lazy and just not trying are somehow – have had serious disadvantages, haven't had the access, the opportunities you've had, and are really good people often with real problems and that really need a lawyer's help and so on. So I think the exposure is an important piece of the attitudes that lawyers – the values that lawyers need to have. Whether or not the skills are improved that much by a semester in the clinic, I'm not sure. But I think that values piece, you can't really replicate it any other way. And simulation doesn't reach that nearly as well, I have to admit. Although the course that I'm working on, we tried to get at them through the tapes and so on that we used. I do think clinical education has changed the profession somewhat. Whether it's changed the practice, I don't know. But I think that it has changed the kind of people in a way who are entering the profession.

Hall: Okay. Actually, can you complete that thought? In what way?

Moulton: Well, I mean, we have a very good clinic at Hastings right now, which is very intensive. It's eight units of – students spend, you know, 20 hours a week around wonderful role models. I think that may be a big piece of it, was that they've seen role models on TV who are, you know, not very good in the facts of law that may be their concept of lawyers. Some of them will know lawyers often who are in private practice and don't talk to them about how to relate to clients or anything. They just

see that they make a lot of money, so they kind of think of that as a piece of it. They see classroom professors who are just very hard-headed, and kind of focused on case analysis and on rationality and so on. But, you know, you have to kind of feel they have to kind of ignore the whole personal aspect of the case that might be discussed. And they'll go on to the clinic and see that finally here's somebody who actually cares about people, who is dedicated to meaningful work, but who still knows how to laugh and has a life, but hasn't sold out. You know, maybe there's hope for me, because I came here because I thought it was about helping people, and this is the first time I've actually seen people who are living that. They're living what I thought lawyering was about. And they go – when they leave, some of them will refuse to go into the big firms that they might go into because they have good grades, and they'll realize that it's not right for them. They'll look harder for the jobs where they can actually make some impact or find meaningful work. So, I do think that people go through the clinic, very few of them are kind of untouched by both the exposure to clients and the exposure to really thoughtful, dedicated, sensitive kind of people who have found a good lawyer role. And the backgrounds of all of our clinicians is legal services or public interest of some sort. That's what they talk about. That's the example they draw on. And so they really show people how meaningful that work is, and how much a piece of a good life as a lawyer that can be.

Hall: I'm not sure this is directly connected, but it – there's a question that Sandy wanted to raise in this interview before he came in about the role of women in clinical legal

education. He was saying obviously there was a very small representation of women in any kind of legal faculty, you know, 20 years ago, but then a very large portion of the clinical faculty now is women. Do you have any thoughts about that or why it is, or how it's changed over the years?

Moulton: Well, I mean, I'm afraid part of it is just demographics and economics. I mean, I think women can sometimes afford to take jobs that are of somewhat lower pay and less status – they may have a partner who's employed, so they don't really have to worry about the money. Or they may feel that their partner's job is so important that they kind of have to take something – it doesn't matter that much whether it has a future because the focus is kind of on whether the partner might get transferred or something. So part of it I think is just the economics – that these are jobs that may not be as necessary to support an entire family on or something like that. An awful lot of women go into legal services. I mean, I don't know what's the – part of it is career choice coming out of law school that women are more likely to go into public interest jobs, at least at my school, too, whether it's part of just the kind of nurturing quality that women bring where they want the satisfaction of helping people one-on-one, working closely with individuals, that they aren't as interested perhaps in the big abstract problems that might be involved in a corporate practice. So that I think some of the very best students who go into this work then become the very best candidates for the jobs, you know, when clinical teaching opens up, and that it's kind of a continuation of working one-on-one with people helping them. I mean, what drew me

to teaching from legal services practice as much as anything was that I didn't like fighting with half the people I dealt with. I never enjoyed negotiation as a game. I didn't like being tricky with opponents, you know? I liked being open and honest and helpful and right there to have a positive relationship with people. And it's – maybe it's because I didn't do sports. There may actually be some cultural dimensions that make me less competitive and less confrontational or whatever, and even the status differentials. It's not that women are just less willing or more willing to take sort of what aren't quite as good jobs. Some of these are very good jobs. Women also want them because of the way you spend your time, the things you're asked to do.

1:19:00

Hall: Do you still see the clinical jobs as having less status in a law school setting?

Moulton: I think at a lot of places they still do. Yeah, I mean, in the Bay area there's hardly a clinical program, where everybody has full status – I mean, maybe one or two people. We've got a pretty large number of people at Hastings now that have full – we have four people with full tenure status, or tenure. We have four who are on clinical tenure track, of whom two of them – or three – two of whom have been tenured. But we have two supervising attorney positions which we're going to have great difficulty ever converting to full faculty positions, because the faculty is just resistant to “watering down the faculty” by allowing these people whose values are different than their own – they're afraid that they will not hire scholars, or people who are going to enhance the reputation of school. So they're very resistant to increasing the numbers

1:20:00

of these people who might look at those issues differently. So it's a battle. I think it's going to go on for years in terms of trying to change status at Hastings, and at a lot of schools.

Hall: How about you personally? Do you feel any of that same kind of lesser status?

Moulton: I don't now. I'm tenured at Hastings, but from the years after I left Arizona State, I went back into legal services training at the national level and headed up the training division of the corporation from '79 to '82, and then I very late in life got married, had a child, took some time off and went back into teaching part-time. And when I went to Hastings initially, in – I think it was '84, the fall of '84 – I was a staff member. I worked – I started out half-time, went up to three-quarters time, and eventually four-fifths time – was able to spend a lot of time with my daughter. And so I didn't have any faculty status. I taught as an adjunct. I've always taught, but I taught just one course a semester. I did this administrative job, which was essentially overseeing a farm-out program with almost no classroom component, but a few classroom components here and there. And I was treated – I mean I had – faculty members wouldn't speak to me. I mean I was just treated like a total nonentity. They didn't know who I was or anything about me, or that I had had tenure status at a different – you know, whatever. They – and I didn't bother to try to push into their ranks and become one of them. You know, I just was quite content with my part-time job on a different floor, but I had all the experiences of being like a staff member who's called

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in to advise the curriculum committee on the clinical program they were beginning to develop, and just being treated like a nonentity whose ideas couldn't be worth anything. But gradually a few faculty members would realize that I really knew what I was talking about, and they gradually turned over more and more of the kind of paperwork to me – writing the memos, writing the proposals, kind of working through the faculty, and eventually we got a million – a new dean came in, wanted to get a clinic going, had me draft a request to the legislature for additional state money to do that. We got the money. I then kind of had to work it through the committees as to how to set it up, what it would look like – got finally eight new clinics faculty positions – was one of the first people hired because they began to, you know, call people and look into my references, realized that I was actually one of the better qualified people to actually join the faculty. But I was at Hastings for six years in this totally secondary status where I wasn't even considered a teacher, you know? So I know what that's like. And I'm very sympathetic to people who struggle with even little indicia of that and different voting rights, or not being invited to certain events or whatever, and having your mailbox in a different place. All of those things hurt. They really do hurt. And I just would love to see a world where they were all eliminated.

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Hall: Are there any three people you would name as having a particularly great influence on clinical legal education?

Moulton: Well, Gary clearly is one of them, I think. I think David Binder. He's produced a whole different strain of scholarship and work at UCLA. I've been very surprised that he hasn't ever won the award. In fact, I maybe should nominate him myself one of these times, because he's worked very hard to try to reach students on a level where they can understand every word in his books and every word in his classroom, and he's done a lot of theoretical work on how best to teach some subjects that are pretty hard to teach. I don't always agree with him at all – [inaudible] he's got it right, but I know he's put an awful lot of thought and effort into that. And the books that he's produced, I think, have been very useful to people. Now, I guess Pincus would be another one, just because of his vision and the funding that came with it, and the fact that he really was able to get clinical education going at a lot of schools. I again didn't agree with everything that he thought and said and pushed, but he really did of course get things going.

Hall: What do you think the future is of clinical legal education?

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Moulton: Well, I think it's here to stay. I see the status problems going on. I don't – at some schools – I hope they're getting better. I look at my own school as a little microcosm and we've been able to hire so many traditional teachers of very high quality in the teaching market in the last few years, because we've had a lot of vacancies, so we're getting – almost everybody we hire is a Supreme Court clerk with incredible credentials. And most of – many of those people have not had clinics, so it's like

fighting the battle over again as we get more and more of these very intellectual, very productive scholars on the faculty. It gets even harder to do things like change the status or bring them up to speed on what clinical education is about and why we might need more of it or do it differently or whatever. So, I don't know, some schools may be going in a different direction, and those issues are getting easier. They're not getting easier at my school. And I sort of – so I see the struggles going on, unfortunately, rather than sort of being a thing of the past. I would like to think that Tony Amsterdam's article about clinical education in the 21st century could become a reality in the next decade, but I'm much less hopeful now than I was when that article was written that clinical education has somehow replaced a lot of the other things that law schools are doing. So, I still see it as crucial and important. I think schools are realizing that they're not going to keep drawing students in if they don't have some kind of clinical program. So very few are just going to abolish it entirely. So I think, as I said, that it's here to stay, but I don't think it's going to be without problems.

Hall: Okay, one last question. Have there been any ways that you think mainstream legal education has been visibly improved because of the presence of clinical education?

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Moulton: I think methodology has had an impact. And I think the fact that the clinical teachers treated people more humanely than the standard faculty has probably softened the way a lot of people treat students. I mean, it was just a little ludicrous to kind of keep making people stand and treating them very harshly in one classroom, when they can

go next door and be called by their first names and nurtured and supported. And the contrasts were just kind of too great. So I think the fact that you had this kind of influx of people who – you had very different relationships with students, and then who did much more interesting things in the classroom, has made the rest of the school kind of have to catch up. They couldn't kind of stay locked into the extreme version of the old ways. So I think it has helped make law school a more humane, kind of comfortable experience for students.

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Hall: Bea, my last question is always: Are there any questions I should have asked, or is there anything you'd like to speak to?

Moulton: I don't think so, no. I don't feel I've been profound on anything. I don't want to go out on this superficial level. So, no, I think that's it.

Hall: You do yourself an injustice. But, anyway, thanks very much.

Transcription of audio taken from video -- By: Sabrina Hilliard