



SECTION ON

NEWSLETTER

## CLINICAL LEGAL EDUCATION

April, 1986

Reply to: Peter T. Hoffman  
University of Nebraska  
College of Law  
Lincoln, NE 68583-0902  
(402) 472-2161

### MESSAGE FROM THE CHAIR

By

Gary Palm, Chicago

The Section has been particularly effective and successful because of the work of its Committees. At the Annual Meeting, the Executive Committee requested volunteers to participate on Committees. As we have come to expect, nearly everyone volunteered for a Committee. Several Committees met after the Section luncheon and decided on their charges and assignments for this year. The Executive Committee reviewed these recommendations and agreed upon the Committee structure for this year. The Committee work is reported elsewhere in this newsletter. Anyone who wants to serve on a Committee but is not listed should contact me.

### Long Range Planning - The In-house Clinic

I proposed to the Executive Committee that the Section begin a long range planning process to help identify the next steps in our efforts to continue the advance of the clinical movement. The Executive Committee approved a Special Committee for this year to begin this process and to focus on a critical part of clinical education: the in-house clinic.

The timing is right. Clinical teachers have reached a general consensus about the importance of live client representation to our pedagogy. We are struggling to establish career positions and first class faculty status for all who teach clinically. At the Duke Clinical Teachers Conference, we found general agreement that a well designed clinical program will include supervision of students by full time faculty in an in-house clinic. This year the Boulder Conference will give special attention to supervision of students. Funding issues have also become more significant this year with the apparent proposed expansion of funding from the Legal Services Corporation, the Gramm-Rudman-Hollings impact on federal funding under Title IX and the increasing costs for clinical instruction caused by greater equality in salaries and leave privileges under 405(e). During the past decade, skills training programs have grown rapidly while live client clinical education has remained stagnant. In-house clinics have not added more attorney positions. Apparently, our expensive in-house programs have given way to increasing use of field placements and wholly simulated alternatives.

Questions have even been raised about "burnout" of clinical teachers -- whether clinical teachers can retain interest in supervising as they and their careers mature. Will we get bored or tired? Will the scholarship demands of the academy undermine the in-house clinic? Perhaps 405(e) will lead to the demise of the in-house clinic since schools can no longer rely on enthusiastic recent graduates accepting lesser appointments and lower salaries to supervise students. Can satisfying and challenging careers really be crafted out of routine, simple and repetitive cases? Are sophisticated or complex cases unmanagable? Must our scholarship be limited to publication in traditional journals? Can clinical scholarship include other methods of reform in law practice and legal institutions such as litigation and legislation?

Future issues must include the appropriate governance for the Clinic. Is there academic freedom for clinical teachers when they teach and practice clinically? Should we change the sole practitioner model that is nearly universally used? Should our clinic be organized more like law firms with senior attorneys and junior attorneys working in collaboration but having different responsibilities on each case as appropriate to their experience and skill?

Should in-house clinics be expanded to include nonlitigation matters? Should we represent the rich just as teaching hospitals do? Should we represent corporations? Should we raid the private bar to find experienced attorneys who would like to bring their practices to the law school and train students full time?

These and many more difficult questions are involved in planning for the future of the in-house clinic on the national level. The Committee will attempt to isolate the considerations and provide guidance about future directions. The Committee might recommend action by the Section, its existing Committees or new Committees, including proposals for action by AALS Committees. No doubt many suggestions will necessitate implementation locally at our schools. The Committee should suggest how we can relate our work to the work of others in in-house clinical programs. New national entities may even be suggested such as a new CLEPR. More work on accreditation standards by the ABA might be proposed.

The task is difficult and demanding. We are fortunate to have Co-Chairs who know about in-house clinics and are concerned about keeping them strong in the future: John Elson at Northwestern University Law School and Bob Dinerstein at American University. John is beginning a year's leave of absence and will focus on these issues as a major part of his research during the leave. The Committee membership is still in formation but the Chairs will hold an open meeting at the Boulder Conference to obtain ideas, suggestions and proposed topics for Committee Consideration. Please contact John or Bob with any suggestions you have about the work of the Committee.

#### Budget Report

The Section is in good financial shape due to the careful but cheap management of my predecessors. As of February 1, 1986 we have over \$6,000 in our account with some bills still to be paid. The Executive Committee

has indicated that it will support worthwhile proposals. In particular, the Committee encourages support for regional conferences. The Section supported the excellent Midwest Regional Conference sponsored by the law schools in Minnesota with a \$500 grant to supplement the Conference fee. Proposals should include a statement of the purpose and a budget. They will be referred to the Executive Committee for consideration and to the AALS staff for administrative processing -- so allow six weeks to receive approval and the check. Please send your requests for money to me.

#### AALS Rights of Supervising Attorneys

It has come to my attention that some clinical teachers who do not hold professorial appointments are not being included as faculty by law schools in the AALS directory. The result is that we do not even know they exist and are part of our movement. Also, they are not given the opportunity to join our Section or other Sections, to receive notice of National Conferences or to receive AALS newsletters and publications. Please check at your school and make certain that all clinical teachers no matter what their titles or terms of appointments may be, are being included in the AALS Directory. The Dean should make certain that a Directory Form is completed for each clinical teacher. Please let me know if there are any problems or questions about including clinical teachers. Also write Susan Kovac or me with names of those who have been excluded so we can invite them to join the Section.

#### Final Thoughts on Listening to Sir George Lead the Chicago Symphony Orchestra in "Bear Down, Chicago Bears"

More and more I find that my clinical teaching is contextual and relates specifically to the substantive law involved. Discovery and trial problems are not resolved in isolation but raise issues about the theories and policies underlying the substantive law. Specialization may be misleading me but it seems that skills training is inadequate unless conducted as part of thorough and sound substantive law research and analysis. Maybe there is a unified theory for skills training across substantive law areas but I am not so sure. But there seems to be specific lawyering skills models for each specialty. I expect we will isolate models for employment discrimination cases from those used in anti-trust cases. But then most of what I do anyway is law teaching albeit with the clinical method: identifying actual issues and problems presented by the substantive and procedural law in the context of representing clients.

I hope to see you in Boulder to argue about what should be included in a supervisor's manual -- law or skills materials.

#### COMMITTEE NOTES

Gary Palm, Chair, has announced committee appointments for 1986 including to the newly changed Long Range Planning Committee. The committees are now in the process of organizing and deciding what activities to undertake during the remainder of the year. All of the committees are interested in suggestions on how they can better serve the Section and its members; do not hesitate to call or write the chair of the appropriate committee if you have an idea you think worth pursuing.

#### EXECUTIVE COMMITTEE

Frank Bloch, Vanderbilt, David Gottlieb, Kansas; Bill Greenhalgh, Georgetown; Peter Hoffman, Nebraska; Lois Knight, Boston U; Carrie Menkel-Meadow, UCLA; Mike Norwood, New Mexico; Gary Palm, Chicago; Kandis Scott, Santa Clara.

The Executive Committee, whose members are elected at the Section Business Meeting, decides issues relating to the activities of the Section, makes recommendations on policies affecting clinical education to the AALS Standing Committee on Clinical Legal Education and to the AALS Executive Committee, and works with other Section committees.

#### ANNUAL PROGRAM

Bill Greenhalgh, Georgetown, Chair; Bob Bloom, Boston College; Richard Boswell, George Washington; Bea Frank, NYU; Doug Frenkel, Pennsylvania; David Gottlieb, Kansas; Carol Liebman, Boston College; Sandy Ogilvy, Texas Southern; Jeanette Rucci, San Francisco; Jennifer Schramm, Puget Sound.

The Annual Meeting Program Committee is, as its name suggests, in charge of planning the program for the Clinical Section at the AALS Annual Meeting. This year the Committee has succeeded in gaining a commitment from the AALS to reinstitute the full day workshop at the 1987 AALS Annual Meeting to be held in Los Angeles. The Section workshop is scheduled for January 3, a day before the commencement of other section programs. A possibility for next year is to run a series of concurrent mini-workshops. Some possible topics currently being considered are externships and the implementation of 405(e). Other suggestions are welcome.

#### ATTORNEYS FEES

Michael Axline, Oregon, Chair; Jane Aiken, Arizona; Len Cavise, DePaul; Larry Grosberg, New York; Minna Kotkin, Brooklyn; Gary Laser, Chicago-Kent; Peter Margulies, New York; Robin Masson, Cornell; David Medine, George Washington; Doug Parker, Georgetown; Suzanne Reilly, Pennsylvania; Nicki Russler, Tennessee; Jim Stark, Connecticut; Bob Stumberg, Georgetown; Louise Trubek, Wisconsin.

The function of this committee is to examine attorneys' fees as a means of financing clinical programs. The Committee is currently surveying current clinic practices, researching relevant case law, and reporting on the practical consequences and policy issues that are raised when clinics seek fees under fee-shifting statutes.

#### AWARDS

Frank Bloch, Vanderbilt; David Gottlieb, Kansas; Bill Greenhalgh, Georgetown; Peter Hoffman, Nebraska; Lois Knight, Boston U; Carrie Menkel-Meadow, UCLA; Mike Norwood, New Mexico; Gary Palm, Chicago; Kandis Scott, Santa Clara.

The Awards Committee selects nominees for the Clinical Section Award which is given each year to an individual who or organization which has

made an outstanding contribution to clinical legal education. The contribution may be superior clinical teaching, scholarship, leadership, service to the section, etc. Past recipients have been:

1985 Dean Rivkin  
1984 Robert McKay  
1983 William Greenhalgh  
1982 Neil Smith  
1981 David Barnhizer

The Committee will start soliciting recommendations in the fall.

#### COMPUTERS

Bob Seibel, Maine, Chair; Gary Anderson, Tennessee; Clint Bamberger, Maryland; John Bonine, Oregon; Frank Bress, NYU; Lewis Burke, North Carolina; Karen Czapanskiy, Maryland; Bob Doyel, Mercer; Phil Hamilton, New England; Marc Lauritsen, Harvard; Mike Norwood, New Mexico; Kandis Scott, Santa Clara; Ron Staudt, Chicago-Kent.

The Committee recently completed a draft report of its 1985 survey on how computers are being used in law school clinics. The survey tabulates the responses to a questionnaire designed and the report written by a steering committee consisting of Marc Lauritsen, Harvard; Bob Seibel, Maine and Phil Hamilton, New England. Copies of the report are available from Phil Hamilton.

#### CONTINUING CLINICAL EDUCATION

Steve Emens, Alabama, Chair; Carolyn Kubitschek, Hofstra, Recorder; Tom Geraghty, Northwestern; Don Gifford, Florida; Ed Greenebaum, Indiana; Roger Haydock, William Mitchell; Gary Lowenthal, Arizona State; Mike Meltsner, Northeastern; Carrie Menkel-Meadow, UCLA; Al Porro, Baltimore; Glendalee Scully, McGeorge; Jed Scully, McGeorge; Roy Stuckey, South Carolina; Wendy Watts, Mercer.

As its meeting on January 5, 1986, in New Orleans the Committee decided to focus on two major areas: 1) to find out and report on existing opportunities for clinicians to do continuing legal education for fun and profit; and 2) to discuss what, if any, will be the relationship between the clinical section and the American Trial Lawyers Association.

In the first area, several clinicians are involved in exciting projects. Roy Stuckey chairs the Seminars Committee of the South Carolina Bar's CLE Committee. South Carolina is a mandatory CLE state and the Bar's CLE Division produces 40-50 CLE programs every year. He suggests that bar associations provide a fruitful source of opportunities for clinical teachers, because most are very interested in offering CLE programs which involve nontraditional subjects and formats. Clinicians who are willing to design and produce such programs can expect to be welcomed with open arms. Anyone who is interested in this should feel free to call Roy at (803) 777-2278.

Tom Geraghty of Northwestern Law School is the Midwest Regional

Director of the National Institute for Trial Advocacy (NITA). He says that he can assist in getting scholarships for clinicians interested in participating as students in any of NITA's intensive trial advocacy training programs. Also, he often has positions available for trainers at NITA programs. Interested persons who have some NITA or equivalent experience can reach him at (312) 908-8576.

Jim Cohen, from New York University Law School, along with Barry Scheck from Cardozo Law School put together a CLE program in trial advocacy for a major corporate law firm in New York City, and presented the program to the firm's new associates last fall. The program, which consisted of twenty two-hour session, used simulations and videotaping to teach the art of deposition-taking, opening and closing statements, direct and cross-examination, objections, and the introduction of documents. The program, which was given alternately during the lunch hour and in the evening, was very well received. Jim is presently negotiating with other firms to present the same, or similar, programs. He would be happy to discuss his experiences with other clinical faculty. You can call him at (212) 505-7400.

The American Trial Lawyers Association, a plaintiff's personal injury bar association, also has openings for clinical teachers to act as trainers in their CLE programs. They say they are particularly interested in women trainers, to act as role models for the young women in the CLE courses.

The information about ATLA came out during a one-day seminar, hosted by ATLA, for ATLA members and clinical law teachers, to discuss ways of "involving practicing lawyers in legal education." The seminar was held in New Orleans on January 3, 1986 just prior to the AALS Annual Meeting. Workshops included, "The Role of Law School Clinical Education," "The Role of Post Law School Continuing Legal Education," and "Merging Clinical and Continuing Legal Education Training." According to the clinicians who attended, the meeting did not accomplish substantive results, but did open lines of communication between ATLA and the clinical faculty.

Gary Palm asked the Committee to follow-up on this, and basically to gather information and ideas so that the Section can make a reasoned decision as to what, if any, our relationship should be with ATLA, and how they can help us. In addition, we will investigate other organizations, such as the American College of Trial Attorneys and the defendants' personal injury bar association, as possible sources of assistance for clinical teachers.

We are interested in your ideas on this subject, and we are also interested in finding out what CLE opportunities you know about. Please feel free to contact any of the committee members. We will publicize all CLE opportunities in the newsletter.

#### INTEGRATION OF CLINICAL METHODOLOGY

Mike Perlin, New York, Chair; Stacy Caplow, Brooklyn; Bob Dinerstein, American; Mary Jo Eyster, Brooklyn; Larry Grosberg, New York; Joe Harbaugh, American; Henry Hecht, UC-Berkeley; David Koplow, Georgetown; Jim Morris, Utah; Janet Motley, Cal-Western; Richard Neuman, Hofstra; Rick Perna,

Dayton; Rex Perschbacher, UC-Davis; Maude Pervere, UC-Hastings; Don Peters, Florida; Glendalee Scully, McGeorge; Randall D. Schmidt, Chicago; Elizabeth Schneider, Brooklyn; Jenifer Schramm, Puget Sound; Arnie Siegel, Loyola-LA; Karen Tokarz, Washington-St. Louis.

The Committee on Integration of Clinical Methodology into the Traditional Curriculum has as its change the consideration of how clinical methods can compliment and improve instruction in traditional, nonpractice-oriented courses.

#### LEGAL SERVICES

Paula Galowitz, NYU, Chair; Peter Aaron, George Washington; Marie Ashe, West Virginia; John Capowski, Maryland; Liz Ryan Cole, Vermont; Doreen Dodson, St. Louis; Peter Erlinder, William Mitchell; Marie Failinger, Hamline; Betsy Fuller, Cornell; Noah Funderburg; Jeff Hartje, Gonzaga; Stan Herr, Maryland; Peter Hoffman, Nebraska; Jim Klein, Toledo; Dan Power, Drake; Dean Rivkin, Tennessee; Ken Rothstein, Hofstra; Ellen Scully, Catholic; Barry Strom, Cornell; Pamela Walker, Akron; Mark Weber, Chicago; Mary Wolf, Indiana.

The Committee met in New Orleans on January 5, 1986 to focus on the purposes of the Committee and goals for this year. We decided that we needed to get accurate information about LSC funding and evaluating of clinical programs, the impact on local programs of LSC funding of clinical programs, and LSC plans for the future vis-a-vis clinical programs. Any information collected will be disseminated through the Newsletter. We also discussed the possibility of a law teacher's statement on the role of clinical programs vis-a-vis staff programs (and sending that to LSC and Congress).

We decided to contact the clinical programs that received initial grants from LSC (excluding Elderlaw grants) to find out why they applied; the nature of the program that is being funded; what communication they had with the local field program before applying; what is the ongoing relationship with the local field program; if they have been evaluated by LSC and, if so, how; whether they have applied for additional funding; what they know about new funding; and if there is any way that we can help the clinical program with LSC.

We also discussed criteria for evaluating programs and for awarding any new grants, but only briefly addressed these issues and need to give them more thought. There was also some sentiment for being available as a resource for clinicians who might want to apply for LSC grants. Finally, we also decided to contact Drake and Loyola-New Orleans to determine what they are doing with their LSC grants.

#### LONG RANGE PLANNING FUTURE OF THE IN-HOUSE CLINIC

John Elson, Northwestern, Co-Chair; Bob Dinerstein, American, Co-Chair; (Committee in formation).

See the Message from the Chair for details about this new committee.

## MEMBERSHIP

Susan Kovac, Tennessee, Chair.

The Membership Committee has as its task the expansion of the Section's membership and, more importantly, developing ways the Section can improve and expand the services it provides to members. Any suggestions or comments will be more than welcome.

## NOMINATING

To Be Announced.

## POLITICAL INTERFERENCE

Wally Mlyniec, Georgetown, Chair; John Bonine, Oregon; Stacy Caplow, Brooklyn; Robert Catz, Miami; Neil Franklin, Idaho; Doug Frenkel, Pennsylvania; Chip Lowe, Nebraska; Elliot Milstein, American; Rick Perna, South Carolina; Jim Stark, Connecticut.

The Political Interference Committee is the one committee we all hope will be inactive during the coming year. Nonetheless, the Committee's task is to monitor incidents of political interference with clinical programs.

## TENURE AND PROMOTION

Lois Knight, Boston, Chair; Jane Aiken, Arizona; Bob Bloom, Boston; Stacy Caplow, Brooklyn; John Capowski, Maryland; John Doyel, Mercer; David Gottlieb, Kansas; Michele Hermann, New Mexico; Mark Heyrman, Chicago; Jim Klein, Toledo; David Koplow, Georgetown; Carol Liebman, Boston College; Chet Mersky, Texas; Wally Mlyniec, Georgetown; Jack Sammons, Mercer; Kandis Scott, Santa Clara; Jed Scully, McGeorge; Roy Stuckey, South Carolina; Larry Weeks, Arizona.

TAP exists to assist individuals seeking tenure or promotion. Committee members will help find evaluators and will offer advice about writing topics, publication possibilities, etc. well before a tenure vote, a teacher or faculty can seek an evaluation of the clinical teaching or program so as to design a route to tenure. TAP will help arrange such evaluations. Finally, TAP offers a confidential source of "savy" about the tenure process likely to be applicable at many schools.

## AALS COMMITTEES

A number of clinical teachers were appointed by the AALS Executive Committee to AALS Committees and other positions for 1986:

Anthony Amsterdam, NYU-Committee on Clinical Legal Education  
David Binder, UCLA-Committee on Clinical Legal Education  
Stephen Ellmann, Columbia-Committee on Clinical Legal Education  
Joe Harbaugh, American-Delegate to the House of Delegates,  
American Bar Association  
Arthur La France, Lewis & Clark-Committee on Clinical Legal  
Education

Gary Laser, Chicago-Kent-Committee on Clinical Legal Education  
Carol Liebman, Boston College-Committee on Bar Admission and Lawyer  
Competency  
Miguel Mendez-Longoria, Stanford-Committee on Clinical Legal  
Education  
Carrie Menkel-Meadow, UCLA-Advisory Committee of the Journal of  
Legal Education  
Elliott Milstein, American-Committee on Accreditation  
Bea Moulton, Hastings-Joint AALS-ABA Section of Legal  
Education and Admissions to the Bar Lawyer Training After  
Law School Committee  
Gary Palm, Chicago-Committee on Government Relations  
Jennifer Rochow, Boston College-Committee on Clinical Legal Education  
Walter Steele, Jr., SMU-Committee on Clinical Legal Education  
Graham Strong, Virginia-Committee on Clinical Legal Education

#### BITS AND PIECES

#### ANNUAL MEETING ACTIVITIES

The half-day program of the Clinical Legal Education Section held on January 5 during the 1986 AALS Annual Meeting in New Orleans was a great success, in large part because of the efforts of Jennifer Schramm, Puget Sound, chair of the Annual Program Committee. The program led off with a plenary session on the integration of clinical methodology into the curriculum with three speakers talking about how this was accomplished at their schools. Jennifer Schramm spoke about the clinical method as an educational force outside the clinic; Larry Grosberg, New York, dealt with the use of clinical methodology in a traditional first year course; and Bob Dinerstein, American, discussed its use in a traditional upper division course.

After the plenary session, three concurrent workshops were held. The first, Evaluation of Clinical Programs, was moderated by Sue Bryant, CUNY-Queens, with Paul Murray, Tulane, talking about outside evaluations of clinical programs, and Dean Rivkin discussing the self-evaluation of clinical programs.

The second workshop was on clinical education and the elderly. Peter Hoffman, Nebraska, and Ellen Scully, Catholic, presented descriptions of their elder law programs funded by LSC grants while Bob Brown, Detroit, speaking as a representative of the Section on Aging gave an explanation of the links between clinical education, the classroom and the elderly.

A third workshop on academic freedom for clinical teachers was moderated by Richard Perna, Dayton, who also spoke about the perspective of a nonsupervisor while Suzanne Reilly, Pennsylvania gave the view of a supervisor. The last workshop, dealing with ADR in a clinical setting, had Lou Raveson, Rutgers-Newark, as moderator. Jonathan Hyman of the same school spoke about whether there is an inherent conflict between teaching ADR and teaching advocacy; Carol Liebman, Boston College, talked about mediation and Doug Frenkel, Pennsylvania, described a live mediation center as part of the law school curriculum.

The Section Luncheon had Marilyn Yarbrough, Kansas, as its speaker. Professor Yarbrough who is a member of the Council of the ABA Section on Legal Education and Admissions to the Bar, spoke about the challenges to clinical education from declining demand for legal education, increasing costs and greater competition for education resources. She described the problems of students being less willing to spend intensive clinical time when they could be clerking earning money and the reluctance of schools to support expensive clinical programs when less expensive farm out programs are available. Finally, she addressed the efforts the ABA Skills Training Committee, of which she is chair, is taking to confront these problems.

The other highlight of the luncheon was the presentation of the Section Award to Tony Amsterdam, NYU, by Dean Rivkin, Tennessee, last year's recipient. Professor Amsterdam was recognized for his forceful advocacy in favor of clinical education as well as the outstanding clinical curriculum he has developed at NYU.

The major action at the Section Business Meeting was the warm congratulations to Sue Bryant, CUNY-Queens, for her work as chair over the past year, the installation of Gary Palm, Chicago, as the new chair, various committee reports and the election of a new chair-elect, Peter Hoffman, Nebraska, and new members of the Executive Committee, Bill Greenhalgh, Georgetown, and Lois Knight, Boston U.

Clinical teachers were also involved in other section programs at the annual meeting. In particular, Kenny Hegland, Arizona, Marjorie Murphy, Cincinnati, Steve Wizner, Yale, and Jennifer Schramm, Puget Sound, spoke on a program entitled "Lawyering Process: Bridging Theory and Practice" while Dean Rivkin, Tennessee, was on a panel called "A Real Life View: Poverty Law Practice in the 1980's and What It Means."

#### CLINICAL TEACHERS CONFERENCE

Preparations are proceeding ahead for the AALS Ninth National Clinical Teachers Conference to be held in Boulder, Colorado on May 17-22. The theme of the conference is the supervision of students in live client and simulation clinics. Since the sending out of the programs, two new additions have occurred. Tony Amsterdam, NYU, will be giving the key note address and Gordon Gee, President of the University of Colorado and author of a major study of legal education, will speak at the final banquet. If you have not yet received a registration application, contact Jane LaBarbara at the AALS (202) 296-8851.

#### MIDWEST CLINICAL TEACHERS' CONFERENCE

By  
Beverly Balos, Minnesota

During the weekend of March 7 through March 9, 1986, clinical teachers' from throughout the midwest region met at the University of Minnesota Law School to discuss issues and exchange ideas relevant to clinical legal education. This was the first midwest gathering of clinical teachers' in approximately five years.

The conference evolved from informal meetings between clinical

teachers from the three law schools in Minnesota. We began meeting among ourselves in order to learn more about each others clinical programs. Although all three schools are located within the Twin Cities we found that our knowledge and understanding of the clinical offerings at schools other than our own was minimal. We discovered that even within the confines of one state we were quite isolated from each other. As we began to exchange information and ideas we found that not only were we uninformed about what was occurring in Minnesota but we had even less information about the state of clinical education at other law schools. Thus we decided to organize a midwest conference.

The conference focussed on two major areas. First we discussed various models of clinical education from the in-house 'law firm' within the law school model with numerous variations to externships. The second major area of discussion was the status of clinicians. We found that many of those who attended the conference worked within the model of the tenure/tenure track director who supervised staff attorneys whose status as faculty members was tenuous at best. Concomitant with staff attorney status was the uncertainty of having one's position funded by time limited grant money.

Based on the exchange of information regarding status issues, it became apparent that 405(e) did not seem to have yet made a significant difference in a substantial number of the law schools represented at the conference. There were of course exceptions and a few schools had made substantial improvements in the status of clinicians.

In addition to extensive discussion on the two main topics, workshops were also presented on computer based clinical instruction, complex litigation, fundraising and attorneys fees, and grading.

The consensus of the clinicians attending the conference seemed to be that the conference provided a valuable opportunity to discuss common concerns and issues as well as begin to develop and maintain a network of clinical teachers in the midwest region. Next year the conference will take place in Chicago.

PRELIMINARY REPORT ON 405(e) COMPLIANCE  
IS AVAILABLE

In July, 1985, the ABA Section on Legal Education and Admissions to the Bar distributed a questionnaire concerning the status of professional skills teachers. In conjunction with the Association of American Law Schools, it also solicited from all accredited law schools their procedures and criteria for complying with ABA Accreditation Standard 405 (e).

A preliminary report on the results has been prepared for the Office of the Consultant on Legal Education for the ABA by Roy Stuckey, chair of the Section's Skills Training Committee.

A copy of this report has been sent to the Deans of all accredited law schools. If needed, additional copies can be obtained from Dean James P. White, consultant on Legal Education to the American Bar Association, Indiana University School of Law - Indianapolis, 735 West New York Street,

Indianapolis, Indiana 46202.

INTERNATIONAL CLINICAL CONFERENCE IN LOS ANGELES  
October 24-27, 1986

The UCLA Law School and the University of Warwick, England, are co-sponsoring an International Conference on Lawyering, the Legal Profession and the Legal Process in Lake Arrowhead (near Los Angeles) October 24-27, 1986. The purpose of the conference is to encourage scholarship among clinical teachers by providing a forum for the presentation, discussion and publication of papers that fall within the general headings of lawyering, sociology of legal profession, and legal process.

If you are interested in presenting a paper and have not contacted us, please indicate your interest to Susan Gillig, Assistant Dean for Clinical Programs at UCLA. While we have received a large number of proposals for papers, we will not finalize the panels and presentations until late Spring. In any event, no paper will be considered unless a first draft is submitted by May 15, 1986.

If you are interested in attending the conference but not presenting a paper, applications and costs will be available April 1, 1986.

UCLA-WARWICK INTERNATIONAL CLINICAL CONFERENCE

"EXPLORING AND EXPANDING THE CONTENT OF CLINICAL LEGAL  
EDUCATION AND SCHOLARSHIP"

By

Susan Cordell Gillig, UCLA

We are pleased to announce that registration is now available for the International Clinical Conference. Papers from clinicians across the country and from around the world will be presented and discussed at the UCLA Conference Center in Lake Arrowhead, California beginning Thursday afternoon, October 23, 1986 and ending after lunch on Sunday, October 26. A number of Conference attendees will also attend an optional post-conference session at the UCLA School of Law from Sunday afternoon, October 25 through lunch on Tuesday, October 28.

If you plan to attend, please promptly return the Registration Form you should have received by now in the mail. The Lake Arrowhead Conference is limited to 100 persons; the post-conference session at UCLA is available to 30 persons. Because many more persons are interested in attending than we can accommodate, space for both programs must be allocated on a first come-first served basis. A waiting list will be established for those who cannot be initially accommodated.

The UCLA Law Review has agreed to select and publish a number of the papers presented at the Conference in a Symposium issue on clinical education. Discussions are also underway for publication in an international law journal of papers of special interest to international colleagues.

The papers and abstracts thus far submitted promise a stimulating and

provocative Conference. We look forward to the lively discussion and further research these efforts are certain to spark. We hope you can be part of this inaugural event.

#### NEWS FROM LSC

Charles Moses, Delivery Research Coordinator, of LSC's Program Development and Substantive Support Unit has announced the publication of an interim one year report of the Law School Civil Clinical Project. He stated that the Project has demonstrated the positive effect such clinics can have on service delivery, promotion of private attorney involvement, training, and recruitment. He emphasized that preliminary cost data indicates that these results can be achieved with highly competitive costs-per-case. Over 93 per cent of the clients served by these LSC funded law school clinics were satisfied with the overall quality of legal services they received. Copies of the report are available from Charles Moses, Program Development and Substantive Support Unit, Office of Field Services, Legal Services Corporation, 400 Virginia Ave., S.W., Washington, D.C. 20024-2751.

The Law School Civil Clinical Project will be continued for the 1986-87 academic year. Applications will be going on to the law schools soon. Approximately \$350,000 will be available at an average of \$50,000 per grant.

In other news, Pepe J. Mendez, Chairman of the Audit and Appropriations Committee of the LSC Board of Directors recently testified before the House Appropriations Subcommittee on Commerce, State, Justice, the Judiciary and Related Agencies on LSC's 1987 budget request. In his statement, Mr. Mendez emphasized that Gramm-Rudman deficit cuts challenged LSC to continue exploration of using law school clinics to broaden the base of services.

#### SUMMARY OF RECENT SOCIAL SECURITY AND SSI DECISIONS AVAILABLE

Carolyn Kubitschek, Hofstra started publishing last fall a bi-weekly summary of all the Social Security and SSI decisions from the federal advance sheets. The summaries are headnoted by the issues decided in the case and followed by a discussion of the decision. The information is presented in a concise and useful manner.

Clinical teachers can be on the list to receive all future issues, and back issues also if desired, by sending 25 self-addressed mailing labels to Carolyn A. Kubitschek, Community Legal Assistance Corp., 73 Main St., Hempstead, NY 11550. There is no charge for the publication.

#### WIZNER RECEIVES JACOBSEN AWARD

Steve Wizner, Yale, received the 1985 Jacobson Award, given by the American Trial Lawyers Foundation. The award which is to provide public recognition to excellence in teaching the principles of trial advocacy was named in honor of Richard S. Jacobson, a leader in trial skills training. The award provides the recipient with a \$3,000 stipend and an all expense

paid trip to the Annual Convention of the Association of Trial Lawyers of America in July.

#### TITLE IX REFUNDED

The Law School Clinical Experience Program, administered by the U.S. Department of Education, has been refunded for fiscal year 1986 in the amount of \$1.5 million. This amount, which is the same as last year, will result in about 30 grants averaging \$50,000 each. The deadline for applications was February 28. For further information, contact Charles Miller, (202) 245-3253.

#### SHORT STUFF

Clint Bamberger, Director of Clinical Education at Maryland, and CUNY-Queens Law School each received the Society of American Law Teachers annual award for outstanding service to legal education at the AALS Annual Meeting in New Orleans. The award to the Queens is the first time SALT has honored an institution.

Ivan Bodensteiner, long active in clinical education, has been appointed Dean at Valparaiso.

Roark M. Reed has been appointed Associate Dean for Clinical Education at SMU.

Rod Jones, a former clinical teacher at Southwestern and former Chair of the Section, has been appointed Dean at Monterey Law School.

The Council of the Section of Litigation at its meeting held September 6 and 7, 1985, adopted a resolution that tax litigation clinics provide a valuable service to taxpayers as well as worthwhile educational experience for law students. The resolution also urged the IRS and educational institutions to cooperate in a pilot program of expanded law student representation of the IRS in Tax Court cases.

Joe Harbaugh, American, has been appointed to the advisory board of the recently formed American Institute for Law Training within the Office ("AILTO"). AILTO is a project of ALI-ABA designed to serve as resource to support in-house training efforts.

As part of Law Week activities at South Carolina, the students organized a Trivia Bowl. Over 30 teams entered the competition. When the dust settled, the victors were clinical professors, Vance Cowden, Pat Flynn, and Rick Perna (visiting from Dayton). Although no firm plans have yet been made, their agent has mentioned the possibility of a national tour and an appearance on the David Letterman Show.

The Delaware Post-Conviction Relief Clinic has been established at Delaware Law School. Lawrence J. Connell is the Director.

New York University will name its new clinical education facility Fuchsberg Hall in honor of Judge Jacob D. Fuchsberg.

Graham Strong will be visiting at UCLA next year.

Carrie Menkel-Meadow, UCLA, is the new Chair-Elect of the AALS section on Alternative Dispute Resolution.

Ron Staudt, Chicago-Kent, is the chair of the AALS section on Law and Computers.

A number of clinicians are members of other section's executive committees:

Carol Liebman, Boston College-Alternative Dispute Resolution  
Bill Greenhalgh, Georgetown-Criminal Justice  
John Bonine, Oregon-Environmental Law  
Andy Shookhoff, Vanderbilt-Family and Juvenile Law  
Rhonda Rivera, Ohio State-Gay and Lesbian Legal Issues  
Mark Lauritsen, Harvard-Law and Computers  
Robert Seibel, Maine-Law and Computers  
Liz Schneider, Brooklyn-Woman in Legal Education  
Karen Tokarz, Washington U.-Women in Legal Education

#### JOBS

##### ARIZONA STATE

The Arizona State University College of Law invites applications for a new tenure-track or visiting faculty position commencing in May or August of 1986. Primary responsibilities initially will include design and supervision of an addition to the clinical curriculum, with an opportunity to teach non-clinical courses. Applicants should have strong academic qualifications, experience in practice or clinical teaching, and a potential for superior law-related teaching and scholarship; Arizona Bar membership is not required. Rank and salary commensurate with qualifications. Arizona State University is an Equal Opportunity/Affirmative Action employer; women and minorities are encouraged to apply. Please send application and resume to: Professor Robert Bartels, Chairperson, Appointments Committee, College of Law, Arizona State University, Tempe, Arizona 85287. (Tel: 602-965-7053).

##### BOSTON COLLEGE

Boston College Law School is seeking applicants for a tenure track position with primary responsibility for a criminal clinical program. A minimum of three years practice is required and previous clinical teaching experience is desirable. Women and minorities are encouraged to apply. Applicants should send a resume to Professor Sanford Katz, Chairman, Appointments Committee, Boston College Law School, 885 Centre Street, Newton Centre, MA 02159.

##### BROOKLYN

In September 1986, Brooklyn Law School will begin to offer a Prosecutor's Clinic to third year law students. This program will involve students handling misdemeanor prosecutions in criminal court. The students will be involved in all phases of the case--from the charging decision

through final disposition.

The Law School seeks to hire a highly qualified person as a clinical professor to run this program. The responsibilities of the instructor will include: supervision of all student activities, both in and out of court, and team teaching a weekly seminar. The seminar's curriculum will include both substantive criminal law, criminal procedure, professional responsibility as it affects the role of the prosecutor and various skills such as interviewing, negotiation, legal writing and trial advocacy. It is anticipated that the student-faculty ratio will be approximately 1 to 10.

This program is being offered under the auspices of the Brooklyn District Attorney's Office. The instructor will function with the same degree of independence as a supervisor, but will be expected to abide by the policies and procedures of the Brooklyn District Attorney's Office. The instructor will also be a full-time member of the faculty of Brooklyn Law School.

Any candidate applying for this position should have a minimum of four years criminal trial experience, supervisory ability and a strong commitment to clinical legal education. The position will be a 12-month faculty appointment which will require the instructor to teach during both the academic year and a six week summer session. Salary will be in the \$30,000 - \$35,000 range.

Anyone interested in applying for this position should send a resume and writing sample to Professor Stacy Caplow, Brooklyn Law School, 250 Joralemon Street, Brooklyn, New York 11201.

#### CHICAGO

The University of Chicago Law School seeks applicants for one clinical position in its Mandel Legal Aid Clinic. The Clinic serves poor clients in Chicago by selecting areas of practice which are not otherwise served. Present areas of specialization are public utilities regulation, employment discrimination, mental health and special education. Responsibilities include supervision of students in litigation of routine and complex civil cases and co-teaching the litigation methods seminar. Attorneys are also responsible for involving their students in the process of analyzing the caseload to develop and implement a plan for reforming the law and legal institutions. Prior clinical teaching or practice experience is preferred. The appointment, which commences in the summer of fall, 1986, is for a one year, renewable term. Interested persons should send a resume by May 15, 1986 to Mark Heyrman, University of Chicago Law School, Edwin F. Mandel Legal Aid Clinic, 6020 South University, Chicago, Illinois 60637.

#### CORNELL

Cornell Law School seeks several highly qualified persons to serve as lecturer/staff attorneys with the Cornell Legal Aid Clinic beginning in the summer, 1986. The initial appointments will be for a period of one or more years, depending on qualifications, with possible extension beyond the initial period. Duties include supervision of students handling civil cases and teaching lawyer skills. Five years practice, with clinical

teaching experience or prior legal services experience preferred. Send resume with names of three references to: Barry Strom, Director, Cornell Legal Aid, Myron Taylor Hall, Ithaca, New York 14853-4109. Applications accepted until filled.

An Equal Opportunity/Affirmative Action Employer

#### FORDHAM

Fordham University - School of Law is seeking a clinical program director with at least 3-5 years experience in academic clinical programs.

Immediate responsibilities include developing and starting up a clinical program and overseeing an ongoing student external placement program. Later responsibilities will include on-site supervision of students in the developed clinic supplemented by classroom instruction and simulation.

Applicants should be admitted to practice in New York State, and the Southern and Eastern Districts of New York or capable of securing such admission by the summer of 1987.

Initial appointments will be made for a two year period and may, thereafter, be renewed. Salary will be commensurate with background and experience.

Interested persons should send a resume with references and a writing sample to Professor Helen Hadjiyannakis, Fordham University School of Law, 140 West 62nd Street, New York, N.Y. 10023. Fordham University School of Law is an equal employment, affirmative action employer.

#### IOWA

The University of Iowa College of Law invites applications for a full-time teaching position in its clinical program. Initial appointment to the position will be made on a year-to-year basis, although at some time the position may be converted into a long-term or continuing relationship with job security. Salary will vary according to the qualifications and experience of the person employed. Prior litigation experience is strongly preferred. Please apply in writing, enclosing a resume with references listed, to Richard A. Matasar, University of Iowa College of Law, Iowa City, Iowa 52242. The University of Iowa is an equal opportunity affirmative action employer.

#### NEW YORK

New York Law School seeks applications for a full-time clinical teaching position beginning August, 1986. The person in this position will share responsibilities with a permanent faculty member in the supervision of clinic students and the teaching of the Housing Discrimination Clinic. Initial appointment for this non-tenure track position will be for one year with the possibility of renewal up to two additional years. Applicants should have two to five years litigation experience, preferably including federal trial work. Experience as a student or a teacher in a law school

clinic which has an emphasis on teaching lawyering skills, also is preferred. Applications from minorities and women are encouraged. Please send resume to Professor Gerald Korngold, Chairperson, Faculty Appointments Committee, New York Law School, 57 Worth Street, New York, New York 10013.

#### NORTH DAKOTA

The School of Law at the University of North Dakota announces the availability of a clinical instructor position effective July 1, 1986. The initial one year appointment is not on a tenure track and continuation after the initial appointment will be dependent upon satisfactory performance and the availability of continued funding. It is anticipated that the salary level will be a minimum of \$21,000 annually and could be higher depending on the experience and background of the person hired and the availability of funding.

The Clinical Instructor will be responsible for teaching and supervision of second and third year law students in an in-house legal clinic with an emphasis on legal issues affecting low-income persons. Other supervisory and teaching duties may be assigned as necessary.

The Law School is seeking a person for this position who is a member of the North Dakota Bar or is capable of becoming a member by motion at the earliest possible time. The person should have a minimum of two years experience as an attorney and an interest in teaching and legal education generally in a clinical setting.

Interested, qualified persons should submit a current resume to Larry R. Spain, Assistant Clinical Professor, UND School of Law, Grand Forks, North Dakota 58202 prior to May 1, 1986. If you have any questions about this position, you may contact Mr. Spain at (701) 777-2932.

The University of North Dakota is an equal opportunity employer committed to affirmative action.

The following position was listed in the February 7, 1986, AALS Placement Bulletin:

University of Washington School of Law will consider applications for a tenure-track position embracing a variety of practice skills subjects. The position will entail responsibility for the composition and coordination of the Law School's current and future program for the development of client-centered practice skills, utilizing both simulation exercises and live-client clinics and involving such subjects as planning, interviewing, counseling, negotiation, other forms of dispute resolution and advocacy; it will also include teaching in one or more related subjects. Letters of application and resumes should be sent. Contact: Professor William R. Andersen, Chair, Initial Appointments Committee, University of Washington School of Law, JB-20, Seattle, WA 98105.

The following position appeared in the November 15, 1985 AALS Placement Bulletin:

NORTHERN ILLINOIS UNIVERSITY COLLEGE OF LAW seeks to fill one or two

full-time faculty positions for academic year beginning September 1986. Primary needs will be skills training, although there may be some flexibility in adapting positions to teaching and scholarship interests of qualified candidates. Applications are particularly encouraged from women and members of minority groups. Contact: Professor Malcolm L. Morris, Northern Illinois University College of Law, DeKalb, IL 60115.

### ESSAYS

Since the renaissance of clinical education under the auspices of CLEPR, there have been two contrasting models of live client clinics. One has been the general practice clinic concentrating, at most, in either civil or criminal work, but often combining the two. The other is the specialized clinic which deals with one particular subject matter. The topics of this issue's essays are the merits of each approach.

#### CLINICAL COURSE DESIGN -- RATIONALE OR RATIONALIZATION?

By

Douglas Frenkel, Pennsylvania

When our Newsletter's editor asked me to write something about the relative merits of 'specialty clinics' as opposed to 'general practice clinics', I took him to be asking a very basic question about alternative designs for our "live client" courses. At most institutions, the debate over clinical legal education has shifted from "whether" to "how." While the planning process is a difficult one, we clinicians are now in a position to ask longer-term questions regarding our choices for designing a clinical curriculum. The topic thus seemed timely.

At our editor's suggestion, I shall briefly describe the contours of two "live client" vehicles at the school where I teach<sup>1</sup> -- our "general civil clinic" (Lawyering Process) course and our small business clinical course (supposedly a "specialty" clinic). For reasons which will become obvious, I quarrel with the use of such labels but find their apparent "dichotomy" to be a useful dimension around which to discuss the important question of clinical program design and planning.

"General Civil" (Lawyering Process) Clinical Course - The title for this course is largely a misnomer. It could be more aptly labelled 'dispute-based lawyering clinical course' and is typical of the most commonly-found civil in-house clinical offering. The course introduces students to the lawyering involved in situations where the clinic's (indigent) client has become or threatens to become involved in a conflict with litigation potential. The typical student experience includes varying doses of several pre-trial litigation skills, predominantly interviewing, case planning, investigation/discovery, evaluation, counseling and negotiation. Student "fieldwork" is made up of a mix of short-term cases

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<sup>1</sup> This essay deals only with "live client" clinical offerings. Choices about simulation courses, while clearly related, seem to pose easier questions regarding resources and teaching goals. Nor will I address the important question of the comparative merits of simulated vs. "live client" courses.

and matters that take years to resolve<sup>2</sup> with students' experiences as varied as the cases themselves. Subject matters vary widely as well, although family and public benefits disputes tend to predominate. The "ultimate", if rare experience, of course, is one in which the student will initiate the case and bring it to conclusion, with an evidentiary hearing (or other form of advocacy) bearing the fruit of the student's pre-trial client interaction and case construction. A classroom "component" teaches skills, professional responsibility, and provides collaborative discussion of 'live' case topics. Questions abound about modes of delivering legal services and the role and professional responsibility of the advocate in a dispute.<sup>3</sup>

On a somewhat broader level, the course attempts such goals as the initial development of judgment in lawyer decision-making, the development of a process of self-evaluation and critique; the study of development and application of doctrine and of the operation of courts and informal legal institutions, and examination of the place of lawyer's work within the context of other life activities.

The actual learning that is derived from this kind of casework, of course, has its limitations. Given the brief duration of these courses and the longer duration of many legal disputes, students generally get only a few appetizers from the skills menu, with many students escaping much doctrinal immersion. Despite efforts to generalize about varying practice settings in the classroom, students' lawyering decisions here are made and examined in a context of non-economic resource allocations.<sup>4</sup> While none of these is necessarily a negative aspect of the "general practice" clinic, I think that it is clear that this sort of vehicle is at best an imperfect mechanism for any attempt at uniform teaching of skills or for the study of the economic and institutional constraints that impinge on most lawyering.

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<sup>2</sup> Such courses are also of varying durations. Some are year-long; others, particularly in schools with large clinical course subscriptions typically last one semester.

<sup>3</sup> The prevalence this sort of litigation-oriented "live client" clinic seems attributable (at least historically) to a variety of factors rooted in the formative days of clinical education. These include the notion that clinical teaching should complement the traditional classroom (dispute-based) study of doctrine (i.e. if litigated cases were the basis of the study of "law", then litigation must be the basis for the study of lawyering); the litigator/legal aid backgrounds of most clinicians; responsiveness to the early external criticism of lawyer competence centering on trial practice; funding and office/case sharing arrangements linking early clinical programs with outside "general practice" legal services offices; litigation-based priorities of grant-making entities; the litigation focus of student practice rules; etc. This general litigation orientation was further buttressed by the setting of the best of the early skills-oriented literature -- (e.g. Bellow and Moulton' The Lawyering Process, Binder & Price Legal Interviewing and Counseling).

<sup>4</sup> Some would argue that, given the prevailing "core" classroom curriculum and student career paths, this is among our most unique contributions.

The "general practice" setting, however, does provide a rich and varied set of teaching vehicles, replete with a broad-range of role and ethical dilemmas, a fertile base for generalizing from specific data and for comparative teaching about lawyering in other delivery systems with varied clients, and in a variety of subject matters.

"Small Business Clinic": This course provides a variety of learning experiences in the context of student's work with small businesses. Students here do no litigation, but rather assist clients in business formation and planning, establishing contractual relations, regulatory compliance, etc. Its overall goal is to expose students to the role and prevalent skills (planning/counseling/drafting) of the lawyer for an entrepreneurial or non-profit entity. This course teaches skills that are substantially different from and almost as varied as, those in the "general civil" clinic. For example, while students are engaged in client interviewing, such transactions tend to be topically-organized, advice-laden, less replete with emotion and in other ways very different from interviews in the litigation area.<sup>5</sup> In the planning mode there is heavy emphasis on preventative law, on anticipation of future contingencies and on structuring entities and transactions so as to avoid (or be insulated from) disputes. This varies considerably from the counseling function in a dispute over past facts, where choices may be limited by the contours of the dispute or ("problem-solving" notwithstanding) by the solutions available from the actual or potential dispute resolution mechanism. The contract and document drafting/skills are stressed and are substantially at variance with litigation writing. Negotiations here tend to stress transactional bargaining characteristics of "dealmaking", replete with the prospect of future dealings between the parties, that are uncharacteristic of lawsuit negotiations. The counseling role faced in this clinic involves directive lawyer intervention in the early affairs of a client's entity and involves constraints (e.g. in the tax advice area) that differ from those in the advocacy model of zealous representation and (almost) undiluted client allegiance. Clinical work is more often than not done on behalf of clients perceived by students to be "peers" in terms of sophistication and/or socio-economic status. Most individual "cases" typically force students to grapple with a greater diversity of interdependent substantive (and financial) considerations than the typical dispute matter in the so-called "general practice" clinic. By the nature of the tasks (and the absence of, e.g. court system delays), students can start and complete many projects in the course of one semester.

Is this then a "specialty" clinic? To me it is "specialized" only in terms of its client's area of activity; viewed functionally, it exposes students to lawyering in the planning/drafting role, probably the most 'general' and pervasive of lawyering activity. If "general" vs. "specialized" is descriptive of a functional continuum, there surely are more "specialized" clinics, e.g. those organized around a narrowly-defined clientele (e.g. the handicapped, unemployed, prisoners) and one or a few primary lawyering tasks (e.g. appellate litigation, mediation, will drafting). Such labels, however, are only marginally helpful in talking

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<sup>5</sup> This is a skills subject on which there has been very little written.

about course design.

Even assuming a shared definition of "general" or "specialty", we cannot make a comparative evaluation of these models (however defined) until we have first made explicit a ranked set of pedagogical objectives for our "live client" clinical offerings. We need to ask such questions as:

- Is skills teaching our mission? Our primary mission? If so, which skills?
- If not skills, what then? Competence, the ability to critique one's lawyering, growth, etc.? "Experience" in one kind of work (e.g. "test" case, child advocacy, tax)? One delivery system (legal services, public defender)? Sensitivity to a particular category of client?
- Are our courses to be "introductory" survey ("coverage") courses? Intensive efforts at developing competence?
- Do we want to pursue our own practice/interests?
- Is the course intended to 'complement' a traditional doctrinal course?
- Is there a "core" of lawyering subject matter(s) that we ought to offer ("cover" via live client vehicles)?

Finally, a comparative evaluation must factor in (and, indeed, might turn on) the question of how students learn best. If, for example, our goal is development of beginning skills competence, (perhaps together with creativity and critical evaluation), is this best learned from a course that offers many repetitions of similar events? Or does experiencing a wide array of differing tasks and subject matters (while observing classmates in yet other tasks) achieve this goal better via generalizing and developing the ability to adapt?<sup>e</sup>

The design of our clinical courses will and should turn on how we answer these questions. While my own views on this are still evolving, my sense is that it is the experiencing and critical examination of a "core" of role-based skills which forms the most useful conceptualization around which to design a set of "live client" courses. The courses described above reflect a process of identification of the most pervasive and distinct areas of the lawyering role and the construction of courses around these and the skills attendant to them.

By contrast, other organizing criteria seem to be less helpful. For example, imparting to students the tools for self-teaching is hardly an organizing principle, as this would seem to flow from any well-taught

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<sup>e</sup> While these are crucial course design questions, the answers will differ greatly from student to student.

clinical course in which students were receptive and teachers capable. Organizing courses around particular client groups seems troublesome. Today's "hot" client group (for e.g. funding purposes) may fade into obscurity tomorrow.<sup>7</sup> (Such a criteria, however, may serve to appeal to faculty practice interests; this is not a trivial reality which needs to be addressed.)

As the above description of the 'general practice' and small business courses will suggest, I have viewed breadth of coverage as a guiding principle for several reasons. Stated positively, this view holds that if our task is to teach about lawyering, we need to examine that notion and attempt to present an accurate portrayal of what lawyers do. If we accept that premise, it seems to me that our predominant collective focus on dispute-based lawyering and skills is almost as skewed as the typical first year curriculum rooted in appellate case decisions. So, too, may be our collective preoccupation with lawyering in traditional "public interest" settings which deprive student fieldwork of economic and market factors which bear on client and lawyer decision-making, as well as on time and other resource allocations. While our message about lawyering is no more "value-neutral" than our teaching of doctrine, I think we must question the wisdom (and for many students, the efficacy) of limiting clinical vehicles to indigent/disadvantaged clients.<sup>8</sup> While producing socially responsible, public-spirited lawyers is an important goal for us, "poverty law" vehicles are not the only way to accomplish this goal. While this sort of practice vehicle may be more consistent with our collective teaching/practice interests and backgrounds than other modes,<sup>9</sup> it seems to me that we need to examine the wisdom of continuing this predominant clinical structure. Finally, our continuing to focus exclusively on dispute-based lawyering for the poor, although understandable, and in some cases required, may contribute more than anything to clinical education's isolation and its being so often misunderstood as a less than rigorous service mission.

Finally, I believe that breadth is suggested by the restraints of limited resources. If we can offer more than one clinical course (but fewer than we would like), how can we justify placing students in the same role or teaching the same skills in more than one course while ignoring entire areas of the field?

Needless to say, these planning questions are easier to pose than to

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<sup>7</sup> Of course, if such a course is designed as a clinical "component" to a "doctrinal" course, substantive concentration would be a major course determinant.

<sup>8</sup> It seems to me that law school service to disadvantaged clients is the most easily dismissed rationale for clinical course design. While it is an important by-product, of our work it surely is secondary to our teaching mission. Think of how much more service clinical faculty could provide if we were not engaged in teaching!

<sup>9</sup> I do not mean to minimize the importance of accounting for faculty interests and specialties. What I do suggest is the opening of our "membership" to new teachers with diverse practice and teaching backgrounds.

answer in our teaching world which is so disproportionately filled with "soft" money, faculty turnover, institutional politics and external constraints. The time does seem right to be asking them.

#### SPECIALIZED CLINICS

By

Mark Heyrman, Chicago

Legal clinics associated with law schools vary greatly. One way in which they vary is the extent to which the clinical teachers/staff attorneys and their students specialize in one area of the law or type of practice. What follows is a description of how one specialized clinic operates and a discussion of the advantages of specialized clinics.

Over a period of years the Mandel Clinic of the University of Chicago Law School has become a specialized clinic. Each of the clinical teachers specializes in one (or sometimes two) areas of practice. Currently these areas are mental health law, special education, utilities and employment discrimination. Students who volunteer in the clinic or who are enrolled in the Litigation Methods course taught by the clinicians are generally assigned to work with one of the clinicians. This assignment is based, as much as possible, upon the students' preferences. Students are advised that in choosing to work with a given clinical teacher they will be choosing to work in one of the above specialities. (There is some provision for students to change attorneys and specialities, but this occurs infrequently.)

Students typically enter the Clinic as volunteers at the beginning of their second year in law school. (First year students are not allowed to participate). Since the Clinic has been consistently oversubscribed, admission is by lottery. Additional students are admitted from a waiting list (also determined by lot) as spaces become available due to attrition. At the beginning of the third quarter of their second year students are invited to enroll in the Litigation Methods course taught by the clinicians. Enrollment is usually limited to no more than six students per clinical teacher. First preference is given to students who are already volunteering in the Clinic. If any vacancies exist, they are filled from the Clinic waiting list.

The Litigation Methods course is a six credit, four quarter course which extends from the third quarter of a student's second year in law school until the student graduates. The vast majority of students remain in the course for the entire four quarters. The course employs a variety of teaching techniques, including lectures, large and small groups, videotaping, simulations and actual clinical experience. However, much of the course is taught in sections comprised of a clinical teacher and the students who have been assigned to work under his supervision. Actual cases in progress are used in small groups, large classes and one-to-one supervision to teach the various elements of effective advocacy.

In consultation with the Clinic's Director and the other clinical teachers, each clinician develops his own intake standards and procedures and develops referral sources, including other legal service providers, social service agencies and the courts. In each of the substantive areas

listed above, the Clinic's cases include a mixture of small or routine cases and large or complex cases. The clinician and his students develop strategies for law reform or systemic change based upon the recurring problems revealed by the run of small or routine cases.

Law school clinics typically serve two functions: they provide legal services to the poor and they provide law students with various types of training and skills. Specialization enhances the ability of clinics to serve both of these functions.

Lawyers representing corporations and the rich typically are specialized. This is presumably due to the fact that the legal problems of these clients are seen as being complex and, therefore, can only be mastered by attorneys who devote a substantial portion of their time to one area of law (federal taxation, securities law, etc.) Most, but not all, law school clinics limit their practice to indigent clients. I suspect that if more clinics represented corporations or other paying clients more clinics would be specialized.

The argument for specialization even in those clinics devoted to representing the poor is based, in part, on the view that the legal problems of the poor are also complex. The statutes and regulations governing the administration of the welfare system in most states, for example, are as detailed and difficult as any other statutory scheme. The legislative and regulatory scheme and the accompanying case law cannot be mastered quickly. Moreover it is constantly changing and it requires time and effort to keep abreast of those changes.

The case for specialization is also based upon the view that clinics should provide the same quality of legal services to the poor that the best law firms provide to their clients. This means that as practitioners we must constantly be exploring ways to change the law or institution in ways that will benefit our clients singly and as a class. In order to identify the systemic problems which repeatedly affect our clients, we must handle a sufficient volume of "routine" cases in the same area. Moreover, only with some mastery of the basic law will we be able to identify potential strategies for change.

Law school clinics are uniquely suited to address systemic problems. First, such clinics can draw on the resources available in the law school faculty as a whole for ideas and strategies. Moreover, in law schools which are a part of larger universities, faculty in other divisions may be able to provide insights which are helpful in solving the problems of the poor. These faculties may also be available as expert witnesses. Additionally, law school clinics generally have easier access to better law libraries and other research tools such as Lexis and Westlaw than is true of others who represent the poor. Since a systemic approach to representation of the poor is, in my views a necessary part of high quality legal services and since such an approach is difficult for generalists, specializations will result in better services for clients.

### Training Law Students

Specialization is equally desirable from a training perspective.

Clinical education has many goals. Among those upon which the Mandel Clinic places its highest priority is teaching students how to prepare for various tasks such as interviewing, negotiations and trials. To prepare to do any of these requires an understanding of the underlying law. One cannot prepare to conduct a deposition for example unless one knows what must be proven -- that is, what are necessary and sufficient elements of the claim or defense. One of the advantages of "live client" clinics is that they force students to learn the underlying law and then apply it to actual litigation. However, it is time consuming and inefficient if students must attempt to learn the law in many different areas. If the students are allowed to specialize, they become experts in the law and can focus more of their attention on the litigation skills.

Allowing students to specialize also improves the interaction between teacher and student. Students who specialize begin to have their own insights about the law. They also begin to challenge the ideas of their supervising attorney. In short, they become colleagues. This improves our ability to teach them and their ability to learn, because the students know that we really care about their opinions. We care because they are informed opinions.

Specialization also forces students to learn about other non-legal bodies of knowledge. In my mental health law practice, for example, students learn a great deal about the theory and practice of psychiatry. Few of my students will have much need for this specific knowledge in their future legal careers. But the clinical experience enables them to learn how such non-legal expertise relates to the practice of law.

Most students in the Mandel Clinic will probably become specialists during their legal career. That may or may not be true of other law schools. However, even for those students who will be general practitioners specialized clinical education should prove beneficial. That is because the skill of learning how to approach a new area of the law is readily transferable. Students who have learned, in a concentrated way, how the substantive law, the procedural rules, the practices of a given forum and trial skills interact should be capable of applying that learning to each new problem. Indeed generalists may need to have this ability even more than specialists. Moreover, while economic realities may prevent many practicing attorneys from giving the concentrated attention to each case that is provided in a clinical setting, it is important for students to learn how to give that attention when it is warranted.

For the reasons outlined above I believe that specialization enables students to learn how to provide the highest quality legal services to clients.

#### PUBLICATIONS

##### CLINICAL EDUCATION

Aiken, Koplow, Lerman, Ogilvy & Schrag, The Learning Contract in Legal Education, 44 Md. L. Rev. 1047 (1985) (Jane Aiken teaches clinic at Arizona State; Dave Koplow and Phil Schrag and Lisa Lerman (formerly) at Georgetown; and Sandy Ogilvy at Texas Southern.)

Boyd, Curriculum Change, 16 Syllabus, No. 4, P.4 (Dec. 1985)

Evans, Washington Report, 16 Syllabus, No. 4. P.7 (Dec. 1985)

Feldman, On the Margins of Legal Education, 13 N.Y.U. Rev. L. & Soc. Change, 607 (1984-85)(Marc Feldman formerly taught clinic at Rutgers-Camden)

Fuller, Book Review, 35 J. Legal Educ. 457 (1985)(reviewing D. Binder & P. Bergman, Fact Investigation (1984)) (Sarah Betsy Fuller teaches clinic at Cornell)

GAL Training-It Works: Child Advocacy Clinic Lauded for Outstanding Research, 30 L. Quadrangle Notes No. 1, P.10 (Fall '85)

Kennedy, How Has Law Teaching Changed in Past 25 Years, 16 Syllabus No. 4, P.1 (Dec. 1985)

Morrison, Virtues and Vices in Practical Legal Education, 4 Dick J. Int'l L. 1 (1985)

Paterson, Some Predictions from Scotland . . ., 16 Syllabus, No. 4, P.3 (Dec. 1985)

Percy, Does Legal Aid Belong in the Classroom, 14 Student Law, No. 6, P.16 (March '86)

#### ALTERNATE DISPUTE RESOLUTION

Edwards, Alternative Dispute Resolution: Panacea or Anathema, 99 Harv. L. Rev. 668 (1986)

Oesterle, Book Review, 35 J. Legal Educ. 602 (1985) (reviewing S. Goldberg, E. Green & F. Sander, Varieties of Dispute Resolution (1985))

Symposium, 21 Willamette L. J. 425 (1985)

#### APPELLATE PRACTICE

Hoving, The Art of the Appellate Brief, 72 A.B.A.J. 52 (1986)

Rehnquist, Oral Advocacy, 27 S. Tex. L. J. 289 (1986)

#### ETHICS

French, Ethical Issues in the Practice of Environmental Law, 2 Pace Env'tl. 66 (1984)

Rieger, Client Perjury: A Proposed Resolution of the Constitutional and Ethical Issues, 70 Minn. L. Rev. 121 (1985)

Underwood, Taking and Pursuing a Case: Some Observations Regarding "Legal Ethics" and Attorney Accountability, 74 Ky L. J. 173 (1985-86)

Weinstein & Crosthwait, Some Reflections on Conflicts Between Government Attorneys and Clients, 1 Touro L. Rev. 1 (1985)

#### GENERAL INTEREST

Benson, The End of Legalese: The Game is Over, 13 N.Y.U. Rev. L. & Soc. Change, 519 (1984-85)

Berman, The Crisis of Legal Education in America, 26 B.C.L. Rev. 347 (1985)

Feinman & Feldman, Achieving Excellence: Mastery Learning in Legal Education, 34 J. Legal Educ. 528 (1985)

Gross, Intellect Beyond Law: The Case of Legal Education, 33 Clev. St. L. Rev. 391 (1984-85)

Kissam, The Decline of Law School Professionalism, 134 U. Pa. L. Rev. 251 (1986)

Symposium, Critical Legal Studies, 34 Am. U. L. Rev. 939 (1985)

Symposium, Social Science in Legal Education, 34 J. Legal Educ. 465 (1985)

Symposium, The Corporate Law Firm, 37 Stan. L. Rev. 271 (1985)

#### LITIGATION

Dombroff, 100 Days to Trial (Part II), 71 A.B.A.J. 48 (1985)

Haydock & Sonsteng, Court Trial Empirical Survey: Interview Responses From Trial Judges Explaining Their Experiences and Views Regarding the Trial of Non-Jury Cases, 11 Wm. Mitchell L. Rev. 775 (1985) (Roger Haydock and John Sonsteng teach clinic at William Mitchell)

McFarland, The Art of Summation, 22 Trial No. 4, P.73 (April 1986)

Spence, How to Make a Complex Case Come Alive for a Jury, 72 A.B.A.J. 63 (1986)

Stop the Discovery Game (Goldberg, Eliminate Oral Discovery; Daily, Preserve the Lawyer's Tools), 72 A.B.A.J. 38 (1986)

#### BY CLINICIANS

Bodensteiner, The Role of Federal Judges: Their Duty to Enforce the Constitutional Rights of Individuals When the Other Branches of Government Default, 18 Val. U. L. Rev. 1 (1984) (Ivan Bodensteiner has long been active in clinical education at Valparaiso)

Burns, The Federalism Rhetoric of Rights and the Instrumental Conception of Law, 79 Nw. U. L. Rev. 949 (1985) (Bob Burns teaches clinic at Northwestern)

Elson, Suing to Make Schools Effective, or How to Make a Bad Situation Worse: A Response to Ratner, 63 Tex. L. Rev. 889 (1985) (John Elson teaches

clinic at Northwestern)

Hegland, Goodbye to Deconstruction, 58 S. Cal. L. Rev. 1203 (1985) (Kenny Hegland teaches clinic at Arizona)

Keyes, The Restatement (Second): Its Misleading Quality and a Proposal for its Amelioration, 13 Pepperdine L. Rev. 23 (1985) (Noel Keyes teaches clinic at Pepperdine)

Lieb, Constructive Discharge under Section 8(a)(3) of the National Labor Relations Act: A Study in Undue Concern over Motives, 7 Indus. Rel. L. J. 143 (1985) (Roslyn Lieb formerly taught clinic at Northwestern)

Lubet, Judicial Ethics and Private Lives, 79 Nw. U. L. Rev. 983 (1985) (Steve Lubet teaches clinic at Northwestern)

Menkel-Meadow et. al., Feminist Discourse, Moral Values, and the Law -- A Conversation, 34 Buffalo L. Rev. 11 (1985) (Carrie Menkel-Meadow teaches clinic at UCLA)

Mlyniec, See No Evil? Can Insulation of Child Sexual Abuse Victims be Accomplished Without Endangering the Defendant's Constitutional Rights?, 40 U. Miami L. Rev. 115 (1985) (Wally Mlyniec teaches clinic at Georgetown)

#### VIDEO TAPES & DISCS

Demonstration Trial Video Tapes, A series of 15 video tapes on various trial stages available from Prof. Abe Ordover, Emory University School of Law, Atlanta, GA 30322

Bress et.al, Lawyering Skills Interactive Videodisc - Computer Exercises (Available from NYU School of Law, 715 Broadway, New York, NY 10003) (Frank Bress teaches clinic at NYU)

#### BOOKS AND TREATISES

M. Dombroff, Direct and Cross-Examination (1985)

Herr, Multidistrict Litigation (1986) (David Herr teaches clinic at William Mitchell)

P. Sperber, Attorney's Practice Guide to Negotiations ( )