



SECTION ON

CLINICAL LEGAL EDUCATION

# NEWSLETTER

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This NEWSLETTER is a forum for the exchange of points of view. Opinions expressed here are not necessarily those of the Section on Clinical Legal Education and do not necessarily represent the position of the Association of American Law Schools.

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## MESSAGE FROM THE CHAIR

Graham B. Stong (U.C.L.A.)

Let me put the matter bluntly:

The time has come, and is perhaps long overdue, for us to acknowledge that the Association of American Law Schools has never been, and can never be, a fully adequate vehicle for the expression and accomplishment of the aspirations of clinicians. We need to consider and, if necessary, to create, alternative mechanisms that will be more responsive to the full range of our needs and our desires.



### I. The Nature of the Problem

At this point, gentle reader, you may expect (but will not find) a recital of a long history of difficulties and frustrations encountered by clinicians in dealing with the AALS. Each of the successive Chairs of this Section would have stories to contribute to such a history, and these stories form a familiar part of the folklore of the national community of clinicians. They may be no more, however, than various manifestations of a more fundamental problem.

The fundamental problem, as I see it, is simply that the goals of an association of law schools, however well-managed and well-intentioned that association may be, will not always be compatible with the goals of a reform movement within legal education. Did you ever stop to wonder why the Conference on Critical Legal Studies, or the Society of American Law Teachers, felt the need for alternative organizational structures? The clinical movement is a reform movement, and a reform movement cannot afford to have its hands tied, or its tongue tied, by the combined wills of the very institutions that it seeks to reform. It needs the freedom to act, and the freedom to speak.

The AALS imposes substantial restraints upon the activities of its Sections. The regulations of the Executive Committee of the AALS provide, for example, that a Section may, with a prescribed disclaimer, "communicate a statement of position on matters affecting legal education to members of the Section and deans and faculty of member and ABA-approved schools," but "may not otherwise publish a statement." Even in communications to a member school, a Section is barred from expressing its views "concerning the quality or characteristics of the school's educational program or characteristics of the school's educational program or institutional policies." The regulations also limit the ability of a Section to undertake joint programs or projects with other organizations, ban a Section from filing a brief *amicus curiae*, and significantly restrict the ways in which a Section can raise and spend money. (AALS Executive Committee Regulations 12.4-12.6.)

The structure, policies and practices of the AALS also restrict in

important ways the freedom of a Section to present conferences, workshops and other programs for its members. A Section though it may of course contribute suggestions, does not determine whether, when, or where a week-end workshop or week-long conference may be given that focuses upon the Section's field of interest. It does not determine the membership of planning committees for any workshop or conference that may be approved (although at least one member of the planning committee is supposed to be from the relevant Section), or any details of the program itself. And, of course, a Section neither determines the registration fee nor shares in any profits generated by a successful program. [The last clinical workshop, which was attended by some 200 registrants, carried a registration fee of \$395 for the two-day event. Simple arithmetic suggests a staggering excess of income over costs, assuming efficiency of management, though no detailed accounting is available.]

Now, restrictions and practices of these sorts make eminent good sense from the Association's point of view, and a perfectly rational argument can be made that they serve the goals of the Association's institutional membership. They do not, however, always function to serve the broader interests of the clinical movement, especially as long as there is no ready alternative to the AALS Section on Clinical Legal Education as a vehicle for the accomplishment of the movement's objectives.

Of course, there always have been alternatives available to clinicians, and we have not been shy about employing some of them. Some have worked to advance the interests of the movement within other organizations, including the American Bar Association. Some have sought to influence agencies and organizations from the outside, in a variety of ways, when the interests of clinical education have been at stake. Some have organized clinical conferences and programs independent of the AALS. All of these activities are undertaken by individual clinicians in their own names because they are so often unable to speak in the name of, or to perform their work under the auspices of, the AALS Section on Clinical Legal Education.

Has the time come for the development of an alternative voice, and an alternative arm, for the clinical movement?

### II. A Potential Solution

Some of you were present in Minnesota, years ago, when the words "Shadow Section" first crept into the vocabulary of clinicians. I first suggested the Shadow Section, in a light-hearted way, as a way for clinicians to accomplish their objectives whenever the regular Clinical Section, for one reason or another, met resistance from the AALS. The idea was simple. Create a Shadow Section that would be identical in every respect to the regular Clinical Section, save one: it would not be under the control of the Association of American Law Schools. The Shadow Section would act whenever the regular Clinical Section could not. The genesis of the Shadow Section concept probably owed something to the "parallel worlds" episodes of *Twilight Zone*, or perhaps to the Tristero System in Thomas Pynchon's *The Crying of Lot 49*.

It was just an idea.

In the years that followed, I came to think of the Shadow Section in a way that was progressively less light-hearted. The idea of the

Shadow Section came to mind during the battles over ABA Accreditation Standard 405(e), when the AALS Executive Committee actively opposed the proposed standard in its mandatory form in official communications to the ABA. Of course, the Clinical Section could communicate no position on the matter to the ABA, and the campaign was left to individual clinicians speaking in their individual names. The Shadow Section came to mind again when the tradition of yearly week-long clinical conferences was broken by the AALS, against the wishes of the Clinical Section, and a weekend workshop was substituted in alternate years. And the Shadow Section returned to mind through the years whenever clinicians wished to take a united public stand on issues as diverse as federal grant funding and threats of political interference.

In a somewhat revised form, the Shadow Section may now be an idea whose time has come.

What revisions may be in order? The original notion was the creation of an organization that would be more shadow than body, more shell than substance. But perhaps we should consider the creation of a more full-bodied organization, a National Association of Clinical Legal Educators, with a structure (and, indeed, a membership) that might or might not parallel that of the Clinical Section. Such an organization would be able to speak with a fuller, more legitimate voice than a "shadow" organization (which, the metaphor suggests, might manage only a whisper). And it would retain the powers that make the Shadow Section a diverting notion: it could speak on behalf of its membership without restriction, and have the power to oppose official positions taken by the AALS when those positions are inconsistent with the goals of the clinical movement; it could lobby, file briefs *amicus curiae*, and undertake projects with other organizations. If the adequacy of the AALS as a sponsoring organization for clinical conferences falters further, it could pick up the slack.

If there were such an alternative organization in place, what activities might it be undertaking this year? It might, for example, wish to make recommendations to the ABA Task Force on Law School and the Profession, an important project already underway which is intended to carry forward the work begun by CLEPER in the late sixties by formulating a new set of proposals for the improvement of professional skills instruction in the nation's law schools. It might, for example, have actively supported the new interpretation of Standard 405(e) that Roy Stuckey proposed to the Council of the ABA Section of Legal Education and Admissions to the Bar. [The proposed interpretation would have reaffirmed that Standard 405(e) contemplates that clinicians should receive compensation reasonably similar to that received by other full-time faculty members. The proposed interpretation was not adopted when first presented, but the Council may reconsider the matter following a period of fact-finding regarding the scope of the problem and the current practices of the Accreditation Committee.] And it might wish to consider the sponsorship of a "dream" clinical conference to be presented at a time, place, and cost not determined by the AALS.

There are, of course, difficulties and dangers in all this, and other ways to attempt to solve the problem. My goal is simply to initiate serious debate within the clinical community about alternative ways in which the clinical movement might promote its objectives. And,

naturally, as the AALS Executive Committee requires us to add, the "opinions expressed here are not necessarily those of the Section on Clinical Legal Education and do not necessarily represent the position of the Association of American Law Schools." But let there be no doubt about my opinion: the Association of American Law Schools has never been, and can never be, a fully adequate vehicle for the expression and accomplishment of the aspirations of clinicians.

### III. The Committee on Alternatives

With the advice and consent of the Section's Executive Committee, I have formed a special committee to examine the issues raised in this Message and to report its recommendations. The Committee on Alternatives is co-chaired by Steve Emens of the University of Alabama, and Mark Heyrman of the University of Chicago. It has already begun its work with a meeting in San Francisco during the AALS Annual Meeting, and will meet again in Ann Arbor during the Conference on Clinical Education. The Committee will consider a broad range of alternative mechanisms that might help clinicians to meet their aspirations, both within and without the AALS, and is open to all interested clinicians.

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The Clinical Section has always held out a warm welcome for those who would like to become active and involved in the national community of clinicians. I invite you especially to become involved in the important work of the Section's committees, most of which are still open to new members. All you need to do is to give a call to the Chair of the committees that interest you, or call me directly. A second way to become involved is to come to the Conference on Clinical Legal Education, scheduled for June 2-7 in Ann Arbor. This is our traditional "summer camp for clinicians," a time to forge friendships within the clinical community, to share ideas, and to participate in the evolution and reformation of the clinical method itself. A strong program has been prepared by the planning committee, and I hope you will come and join in!

## COMMITTEE REPORTS

### ATTORNEYS FEES COMMITTEE

by Larry Grosberg, Acting Chair  
New York Law School

Under Doug Parker's leadership, the Attorneys Fees Committee has been working on three tasks. He is out of the country this semester, on leave, so I am providing a status report on each of the three matters. First, we have drafted a Statement of Operating Principles for live-client clinics whose cases might generate fees. That draft is now circulating among Committee members and we hope to disseminate something to Section members in the next newsletter. Second, we are working on an update of a survey of what clinics are actually doing in the area of generating fees. And third, we are adding to and updating a legal memo prepared by Mike Axline on the existing legal and ethical standards for collecting and using fees. This revised memo could be the legal support for the Statement of Operating Principles mentioned above, or the basis for possible recommendations for change in the existing standards.

Members: Michael Axline (Oregon); Patrick Flynn (South Carolina); Keith Harrison (Illinois); Susan Kay (Vanderbilt); Minna Kotkin (Brooklyn); Doug Parker (Georgetown); Randall Schmidt (Chicago); Ronald Schwartz (Chicago-Kent); James Stark (Connecticut); David Thomas (Chicago-Kent).

## COMPUTER COMMITTEE

by Marjorie McDiarmid, West Virginia &  
Larry Weeks, Arizona State

The Committee is planning a demonstration of various ways that computers are used to teach in Clinics at some point during the Clinical Conference in Ann Arbor. There should be programs demonstrating document creation, case management, and teaching some substantive law.

Members: Bob Seibel (Cornell); Terry Player (San Diego); Sandy Ogilvy (Texas Southern).

## EXTERN COMMITTEE

by Leah Wortham  
Catholic University

The Extern Committee met on January 5, 1990, at the AALS meeting in San Francisco. Because there was little advance publicity and we were not listed in the program, I expect some people who would like to have come were not aware of the meeting. I intend to hold another meeting at the clinical conference in Ann Arbor, probably the Sunday evening slot on June 3.

This NEWSLETTER includes an extern committee mailing list I have compiled of extern clinicians and others who have indicated an interest in extern topics. If you would like to be added, please call me at 202-635-5140 or drop me a note at Catholic University. I am considering all those listed to be "members" of our Committee. This means that I will keep them informed and may ask them if they are interested in working on particular projects.

Under Carol Liebman's leadership last year, we had a good turnout for a meeting at the clinical workshop in May 1989. At that meeting, we hypothesized a school wishing to start an extern program or revise an existing one. The group of experienced extern clinicians there brainstormed a list of possibilities and choices to be considered. These included: goals externships might seek to achieve; methods that can be used; various ways of working with field supervisors; and a variety of roles the faculty director may play. For the January meeting, Nancy Daniels, Carol Liebman, and Steve Maher each provided a written inventory of the fruits of the May 1989 work. Anyone interested in receiving copies should let me know.

At the January meeting, we talked about recent developments in the accreditation process. I am interested in hearing about experiences with respect to extern programs of any schools who wish to share them.

We discussed the widely felt need for more conference opportunities focussing on issues of particular concern to extern programs. We discussed: a conference for extern clinicians devoted to such

issues; sessions of general clinical conferences; and small group meetings. Most present were interested in a mixture of discussions with in-house and simulation clinicians on topics of mutual interest and opportunities to meet alone on topics of particular interest to extern clinicians. We identified clinical meetings already scheduled over the next several years, and people with whom to make contact about topics of interest.

The following subjects were identified: overall program design; confidentiality and conflict of interest questions: specific teaching methodologies, e.g., journals/diaries, learning agendas/contracts, readings, and diagnostic testing/self-evaluation; techniques for teaching professional responsibility; techniques for raising questions about lawyer's role and value conflicts; ways of working with field supervisors; ways to encourage reflection on student experience in paid employment to enrich the clinical experience; raising law practice management issues, e.g., time management, stress management, communication, fee setting, and retainer agreements; techniques for using the extern course to help students consider what they want from their life as a lawyer including area of law, type of institution, "fit", demands of different types of practice; and further discussion of application of accreditation standards, e.g., refusal to consider a teaching dean as an acceptable extern professor. The inventories of possibilities from the May 1989 meeting provide many specific suggestions for substance on these topics. Please call me with any comments on or additions to these topic suggestions. We will be refining them this year and seeking to put the results on future conference agendas.

We discussed possible uses of the inventory of possibilities from the May 1989 session. We will continue to discuss that in Ann Arbor in June.

Extern Committee Mailing List as of 02/90. To be added, call Leah Wortham at 202-635-5140 or write to Leah at The Columbus School of Law, The Catholic University of America, Washington, DC 20064.

Alice Alexander (Northeastern), Frank G. Avellone (Ohio Northern University), John Barkai (Hawaii), Joseph T. Baum (Albany), Robert M. Bloom (Boston College), Barbara B. Bressler (DePaul), Mark E. Budnitz (Georgia State), Stacy Coplow (Brooklyn), Liz Ryan Cole (Vermont), Nancy A. Daniels (Florida State), Larry Foster (Hawaii), Bruce E. Friedman (Franklin Pierce), Therese Geiger (Dayton), Carol Hart Gregg (Florida State), Ardath A. Hamann (John Marshall), Daniel James (Northeastern), Wendy Watts Jenkins (University of Georgia), Gill Johnston (John Marshall), Many L. Kamerling (Rutgers - Camden), Susan Davis Kovac (Tennessee), Gary Laser (Chicago-Kent), Lisa Lerman (Catholic), Carol Bensinger Liebman (Boston College), Mervyn H. Loya (Oregon), Stephen T. Maher (Miami), Angela McCaffrey (Hamline), Harold McDougall (Catholic), Marsha Lynn Merrill (St. Marys), Alan Minuskin (New England), Linda Morton (California Western), Myron Moskovitz (Golden Gate), Ellen Musinsky (Franklin Pierce), Odeanna Neal (Baltimore), Richard K. Neumann, Jr. (Hofstra), Sue Ann Levin Schiff (Berkeley), Roy D. Simon, Jr. (Washington University), Linda Smith (Utah), Donald H. Stone (Richmond), Graham Strong (U.C.L.A.), Roy Stuckey (South Carolina), Stephen N. Subrin (Northeastern), Karen L. Tokarz (Washington University), Robert D. Ulrich (South Dakota), Janet Motley Weinstein (California Western), Charles B. Wiggins (San Diego), Paul Wilson (Northeastern), and Leah Wortham (Catholic).

## OUTSIDE FUNDING/LEGAL SERVICES COMMITTEE

by Jeff Hartje, Denver

As many of you know the Department of Education CLEP grant's request proposal came out much earlier this year than in the past. The request for proposals actually came out in the middle of December with a deadline for the proposal of January 12. Although there was notice in the Federal Register in September that the deadlines had been changed, it took many of the clinicians in the section interested in CLEP funding by surprise.

During the AALS convention the Outside Funding Committee attempted to contact Charles Miller, the contact person responsible for implementing and administering the grants in order to discuss an extension of the period beyond January 12. The extension was probably justified for a number of reasons, including the change of the format of the grants doing from a one year to a three year proposal and the sketchiness of the information that was provided in order to deal with the new grant format. Apparently Dr. Miller had been on vacation immediately prior to the grant deadline and when he came back he indicated to a member of the committee that an extension would not be granted.

Shortly thereafter, after the deadline, without contacting the section or this committee, the administration of the AALS wrote several letters, one to the Deans of all law schools suggesting some political intervention to extend the deadline and to members of Congress and the Secretary of Education to intervene to extend the deadline. The AALS had been provided with incomplete information. The AALS letters recite that a small number of grants were received — 46 for a total request of less than was appropriated. In fact there were 63 proposals and an amount requested of 7.25 million. The funding authorization of that program is rumored to be 5 million although there is no substantiation of that.

The committee attempted to gather information on the positions of various schools in order to substantiate the need for the extension; and could find no substantial groundswell of opinion demanding an extension. Many programs had performed heroically to get their proposals in under the rather stringent time requirements. Several faculty felt that an extension period for those who had not submitted a proposal would not be equitable.

The committee believes that as of this date the Department of Education has not acted on an extension and is reading the proposals it has received. From this experience it seems that issues that section members should be considering are:

1. If the short time period is going to be repeated on an annual basis, should the AALS or the section attempt to do something about it?
2. Should the section provide input into the format of the proposal to make the three year grant period need better articulated?
3. Should the section discuss criteria for the selection of longer term grants as opposed to single year grants since it is obvious that different considerations exist?
4. What is the future of the DOE/CLEP Program? It has been rumored that when the bill comes for reauthorization there is an

opportunity to significantly increase the funding for the DOE/CLEP Program. Should clinical section members be collectively involved in legislative strategy to attempt to increase the funding for the DOE/CLEP program?

These questions will be pursued by the Committee in 1990-91.

Members: Sande Pone (Loyola); Paula Galowitz (NYU); Helen Marks Dicks (Wisconsin); Larry Spain (North Dakota).

## COMMITTEE ON DEALING WITH DIFFERENCE

by Suellyn Scarnecchia, Co-Chair  
Michigan

Members of the Diversity Committee met in January at the AALS Annual Meeting. Co-chairs of the committee are Antoinette Sedillo-Lopez (New Mexico) and Suellyn Scarnecchia (Michigan). At the January meeting, we set two immediate goals. First, in an effort to share strategies for teaching about diversity in clinics, we plan to compile a set of ideas and materials used by clinicians to introduce diversity and bias issues into the curriculum. If you teach a particular class session or use a particular technique to get students talking about "dealing with difference," please send a description and copies of any materials you use to Suellyn at University of Michigan Law School, Ann Arbor, MI 48109-1215. We hope to have some of these materials ready to distribute at the June conference in Ann Arbor, so please send us your ideas quickly! If you do not have time to write something down, please call Suellyn (313/763-5000) or Antoinette (505/277-5265) with your ideas. There will be an informal evening session on June 4th in Ann Arbor to discuss race and gender issues.

Second, we are proposing that diversity be the central topic for the 1991 Clinical Section Workshop in Washington, D.C. We have made a proposal to the planning committee and we hope that many of you support this idea.

If you are interested in working on the Diversity Committee, but could not attend the meeting in January, please call Suellyn or Antoinette.

Members: Barbara Gilchrist (St. Louis); L. Darnell Weeden (Texas Southern); Nancy Polikoff (American); Jeffrey Kobrick (Harvard); Beryl Blaustone (CUNY); Richard A. Boswell (Notre Dame); Jane Schukoske (Baltimore); Sue Bryant (CUNY).

## THE COMMITTEE ON THE FUTURE OF THE IN-HOUSE CLINIC

by Bob Dinnerstein, American

This committee has been in existence since 1986 when Gary Palm, then section chair, created the committee (co-chaired by John Elson and Bob Dinnerstein) to study and report on the challenges facing live-client, in-house clinical programs. We are in the last stages of preparing the committee's final report and disseminating it to the section by the time of the June 1990 AALS Clinical Teachers Conference in Ann Arbor, Michigan. The report will contain sections on the pedagogical justifications for in-house, live-client clinical legal education; working conditions for live-client clinicians; a charter

for section leadership; minimum guidelines for in-house, live-client clinical programs, and perhaps more significantly, the data collection subcommittee's (chaired by Marjorie McDiarmid) analysis of questionnaires submitted by a representative sample of law school clinical programs. Once the report is completed, the committee expects to focus on issues that are of continuing concern to live-client clinicians, such as the marketing of live-client clinical programs (to students, non-clinical faculty, employers); the tension between live-client work and research and writing; the need to disseminate information to the section about current developments in live-client, in-house clinics; and the relative pay status of clinicians (and the extraordinary difficulty in getting reliable salary information from currently available sources).

**Committee Members:** Tony Alfieri (New York), David Barnhizer (Cleveland-Marshall), Deborah Barthel (George Washington), Steve Befort (Minnesota), Laura Berend (San Diego), Richard Boswell (Notre Dame), Sande Buhai-Pond (Loyola, Los Angeles), Clark Cunningham (Washburn), Rob Dieter (Colorado), John Elson (Northwestern), Kate Federle (Hawaii), Phyllis Goldfarb (Boston College), David Gottlieb (Kansas), Peter Hoffman (Nebraska), Peter Joy (Case Western), Susan Kay (Vanderbilt), Carolyn Kubitschek (Hofstra), Gary Laser (Chicago-Kent), Marjorie McDiarmid (West Virginia), Gary Palm (Chicago), Terry Player (San Diego), Pat Roth (Georgetown), Marilyn Rose (Nova), Kandis Scott (Santa Clara), Bob Seibel (Cornell), Mark Spiegel (Boston College), Graham Strong (UCLA), Roy Stuckey (South Carolina), Kathleen Sullivan (Brooklyn). Note: This list includes those individuals who have been on the committee the last several years, as well as those who either attended the committee meeting at the AALS annual meeting in San Francisco or signed up to join the committee at that time.

## COMMITTEE ON ALTERNATIVES

by Mark J. Heyrman, Chicago

The newly formed Committee on Alternatives met for the first time during the AALS meetings in San Francisco. The Committee is considering problems with AALS sponsored conferences. A very short questionnaire concerning AALS Conferences is attached to this NEWSLETTER. It would be helpful if at least one person from each law school would fill out the questionnaire.

The Committee is also charged with problems relating to the need for the section to have its voice heard both within and outside AALS on matters relating to clinical education. The Committee will hold another meeting during the Clinical Section's program in Ann Arbor, Michigan in June.

**Members:** Richard Neumann (Hofstra); Helen Marks Dicks (Wisconsin); Randall Schmidt (Chicago); Beryl Blaustone (CUNY); John Elson (Northwestern); Susan Brehm (Wisconsin); Barbara Schwartz (Iowa); Kandis Scott (Santa Clara); Susan Kovac (Tennessee); Liz Ryan Cole (Vermont); Lois Kanter (Harvard); Minna Kotkin (Brooklyn); Paul Reingold (Michigan).

## TENURE AND PROMOTION COMMITTEE

by Stacy Caplow, Brooklyn

After a period of dormancy, this committee has been reactivated.

The members of the committee are Jane Aiken (Arizona State), Richard Boswell (Notre Dame, soon to be visiting at Hastings), Philip Hamilton (New England), and Stacy Caplow (Brooklyn), Chair.

There are several topics that seem to call for some consideration by the section. They include: (1) schools in which clinicians are having to compete for their own jobs through a grandfathering process; (2) several instances of the denial of tenure to clinicians including (a) the evaluation standards used, and (b) post-denial terms of employment for affected faculty members; and (3) the availability of evaluators/reviewers for people applying for tenure.

The committee plans to consider these topics in the upcoming months in an effort to decide whether or not we should be encouraging some section policies or more public discussion. We plan to schedule a meeting (the formality of which will be decided later) at the clinical conference at Michigan.

The committee would appreciate hearing from clinicians who have had experiences in any of the situations described above. First, if you are in the midst of or have already gone through an appointments process in which non-tenure eligible clinicians were competing in a "nationwide search" essentially to fill their own jobs being converted to tenure track positions. Second, if you or your colleagues have experienced the denial of a tenure application and would like to share that experience with the committee, especially if you have subsequently negotiated with your school for newly defined terms or conditions of employment. Third, if you have had experience either in the process of your own tenure application, on behalf of someone else's, or in connection with an ABA/AALS inspection evaluating a clinical program, we would like to try to develop a pool of people available for future tenure evaluations. We may also consider the advisability of preparing written standards that could structure an external and/or internal review of a program, "clinical" scholarship, and clinical teaching.

Tentatively we see our mission as helping to gather information in order to function as a clearinghouse for section members and to act as a support system for members of the section who are having problems either getting on tenure tracks or getting tenure, once eligible. Please feel free to contact any member of the committee: Jane Aiken (602/965-6463); Richard Boswell (219/239-6982); Philip Hamilton (617/451-0010); Stacy Caplow (718/780-7944). We would really appreciate getting as much information as possible before we begin our committee work.

## ANNUAL MEETING PROGRAM PLANNING COMMITTEE

Chair: John Barkai (Hawaii)

**Members:** Ann Shalleck (American); Barbara Schatz (Columbia); John Morris (Utah); Kathy Sullivan (Brooklyn).

## AWARDS COMMITTEE

Chair: Gary Palm (Chicago)

**Members:** Dean Hill Rivkin (Tennessee); (other members TBA).

## COMMITTEE ON INTEGRATION OF CLINICAL METHODOLOGY INTO THE TRADITIONAL CURRICULUM

Chair: Minna Kotkin (Brooklyn)

Members: Jeffrey Kobrick (Harvard); Bob Seibel (Cornell); Beryl Blaustone (CUNY); Alan Minuskin (New England).

## NOMINATING COMMITTEE

Chair: Sue Bryant (CUNY)

Members: Bill Greenhalgh (Georgetown); Peter Hoffman (Nebraska); Susan Kovac (Tennessee); Roy Stuckey (South Carolina); Kandis Scott (Santa Clara).

## POLITICAL INTERFERENCE GROUP

Co-Chairs: Lou Reveson (Rutgers)  
Chuck Weisselberg (Southern California)

Members: Robert Cohen (Chicago); Susan Brehm (Wisconsin).

## OF INTEREST TO CLINICIANS

### GARY PALM SUFFERS HEART ATTACK

Several weeks ago Gary Palm (Chicago) suffered a heart attack. On Valentine's Day he underwent double bypass surgery. The surgery appears to have been a complete success and Gary has been released from the hospital. For the time being he can be reached at the Hotel Belmont, 3170 North Sheridan Road, Chicago, Illinois 60657. 312/880-7176.

### REPORT ON ABA SKILLS TRAINING COMMITTEE

Roy Stuckey (South Carolina) reports that the Skills Training Committee of the ABA Section of Legal Education and Admissions to the Bar will meet in Naples, Florida, on April 5-8, 1990. Anyone with thoughts about agenda items should contact the committee's chairperson, John Elson, Northwestern (312/908-8576).

One Issue which will be on the committee's agenda involves the compensation of professional skills teachers. At its meeting in Los Angeles in February, the Section's Council decided not to adopt an interpretation of Standard 405(e) which would have called for professional skills teachers to be compensated "reasonably similarly" to other members of the faculty.

However, the compensation issue remains on the Council's agenda. There was some confusion about the exact meaning of the language in the proposed interpretation. To some, it meant that salary parity would be required without allowing schools the same flexibility they now have for setting salaries for other members of the faculty. To others it meant only that compensation of clinical teachers should be determined in the same fashion as that of other members of the faculty, that is, according to the factors set forth in Standard 405(e).

Although the proposed interpretation was not adopted, the Council does plan to gather additional information about current practices from law schools and from the Section's Accreditation Committee.

The Council was also unprepared to decide some of the questions which came up during the discussion of the proposed interpretation. For example, is it legitimate to pay less to professional skills teachers who are not required to produce scholarship (on the theory that the pool of people who can produce quality scholarship is more limited, and therefore more highly priced, than the pool of people who can teach and practice law with high quality in a clinic)? Another question is whether a school must conduct a national search for skills teachers or whether it can legitimately restrict its search to its local area and hire competent people at lower salaries than the national market would demand.

If you have any thoughts about these questions or any other issue related to compensation, the Skills Training Committee would like to hear from you.

### OTHER NEWS FROM THE ABA

In other news from the ABA, Roy reports that in December, the Council adopted the following interpretation: "Standard 304(b) does not relieve a law school from its obligation to evaluate the scholastic achievement of students in professional skills courses, including in-house and field placement clinics." Also in December, the Consultant on Legal Education to the ABA, James P. White, sent a memo to all deans which stated in part: "At its December 2-3, 1989 meeting, the Council suggested that law school faculties develop procedures for review and evaluation of part-time faculty."

### USING THE MYERS-BRIGGS AT YOUR SCHOOL?

This is a request for information about the Myers-Briggs Types for any law students who have taken the MBTI at your school.

The faculty and administrators have been using the Myers-Briggs type Indicator (MBTI) at many law schools. Although these people have data about the psychological types of students at their own school, there is not any national information about law students and the Myers-Briggs. The only published study about psychological types of law students is over 20 years old and has a very small sample. (Imagine the number of women law students in that study.) Apparently when most law students take the MBTI, the answer sheets are scored locally, and therefore the types are not reported to CAPT (Center of Applications of Psychological Type) data base.

A group of about 30 law faculty and administrators met for a day-long workshop about the MBTI the day before the January AALS meeting in San Francisco. The majority of faculty at the meeting were clinicians. Naturally, the group began to speculate about what the profile of psychological types would look like from law students across the country. John Barkai and Carol Liebman were interested in collecting type data to see what can be learned about type and law students nation wide.

Please send your type data and we will collate the information and share it with those of you who are interested. It would be very helpful if the data you send is in the form of a type table (divided into the 16 types, indicating males and females). A blank form for reporting the data will be sent to you if you need one.

Please send any data you have available to:  
John Barkai  
University of Hawaii Law School



#### **NEW ADDRESS FOR GEORGETOWN CLINICS**

The Georgetown Law Center Clinical Programs have moved into the Law School Building. The new address for each of the clinical programs is 111 F Street, N.W., Washington, D.C. 20001-2095. The telephone numbers are the same as before.

### **AALS CONFERENCE ON CLINICAL LEGAL EDUCATION JUNE 2-7, 1990 UNIVERSITY OF MICHIGAN IN ANN ARBOR**

Registration materials should be received any day now from the AALS. The Planning Committee has scheduled a full menu of events over six days, and many Section Committees will hold interest-group meetings during the unstructured times. According to the AALS, registration fees for member and fee-paid schools will be \$435; others \$510. Housing is available in Graduate Student Housing: regular dorm rooms are \$38 (single) and \$48 (double), with "deluxe" guest rooms available at \$46/55. There is no meal plan.

The program includes:

June 2 - Dinner, Keynote Speaker: Joseph D. Harbaugh, University of Richmond, speaking on "Goals of Clinical Teaching."

#### **TOPICS**

June 3 - "Means of Achieving Goals: Models of Clinical Teaching" "Using the Same Problem to Achieve Different Goals"

June 4 - "Role Conflict for the Clinical Teacher: Scholarship and Teaching Live Client and Simulation"

June 5 - "Externships: Goals and Methods"

June 6 - "How to Make Your Life Better as a Clinician: Isolation and Burnout"  
"Learning from other Disciplines"

**BANQUET:** Wednesday Night - Speaker: Robert McCrate, Chair of the ABA Task Force on Law Schools and the Profession: Narrowing the Gap, and past-president of the ABA. He will speak on the work of the Task Force and its relationship to clinical legal education.

June 7 - "Rethinking the Traditional Clinic: Mediation, Non-Adversarial Clinics and Legislation Planning Clinics"

#### **PLANNING COMMITTEE FOR 1991 WORKSHOP NAMED**

The AALS has named the Planning Committee for the 1991 AALS Workshop on Clinical Education. They are as follows: Wally Mlyniec, Georgetown, Chair; John Elson, Northwestern, Professional Development Committee representative; Jeff Hartje, Denver; and Minna Kotkin, Brooklyn. They will be meeting in early April to plan the workshop. One suggestion for the workshop is to use the entire time to continue the discussion of diversity that began at the AALS annual meeting. If you have any suggestions for topics, or reactions to the topic of diversity, please send them to Wally

Mlyniec sometime before the end of March.

The Clinical Section is planning an all day meeting for the 1991 AALS Annual Meeting which is January 3-6, 1991 in Washington, D.C. Although the day for our meeting has not yet been assigned by the AALS, it is likely to be on Thursday, January 3.

The Program Committee welcomes your suggestions for both format and topics. The topics suggested so far include a meeting for new clinicians, uses of simulation, externships, grant writing and alternative funding sources, coaching students towards excellence, and using computers for more than just word processing. The afternoon sessions will probably be several concurrent workshops along with a special meeting room where clinicians can just go to talk to one another and exchange materials, ideas, and good conversation. The Program Committee members are John Barkai, Chair (Hawaii), John Morris (Utah), Barbara Schatz (Columbia), Ann Shalleck (American), Kathleen Sullivan (Brooklyn). Please call or write with your ideas to a member of the committee or use the Bitnet electronic mail system to: barkai@uhccux.uhcc.hawaii.edu.

#### **NEW JOURNAL OF INTEREST TO CLINICIANS**

Peter Hoffman (Nebraska) brought to the editor's attention an Australian publication, The Journal of Professional Legal Education, that clinicians should find of great interest. The Table of Contents of the sixth volume lists these titles, among others: "Using Simulation Approaches in Large Enrolment Law Classes," "Defining the Role for Research in Developing the Legal Practice Course Curricula," and "Legal Practice Courses: Theoretical Frameworks and Models."

#### **NEW VIDEOTAPE AVAILABLE**

Also of interest is a 27 minute videotape, "Child Abuse and Neglect: The Attorney's Role," which explores the role of attorneys representing children in court cases. The videotape shows two simulated interviews with a ten-year old girl who is the subject of an abuse proceeding. Both interviews are framed by discussions between the attorney and a child psychologist exploring specific issues related to the attorney's advocacy role and child interviewing skills. The tape has received praise as a teaching device from Donald Duquette (Michigan). The videotape and a Viewer's Guide for Facilitators is available from Copley Publishing Group, 138 Great Road, Acton MA 07120.

#### **HARVARD PLANS PROGRAM ON CRIMINAL CLINICS**

Harvard has just approved a proposal to create a multi-faceted Criminal Justice Institute which will begin operations in the coming academic year as a major new program of education, practice, and research in the field of criminal justice. Charles Ogeltree has announced that the Institute plans, as one of its early projects, to sponsor a gathering of practitioners, clinicians, and criminal law theorists to talk about the importance, the impact, and the design of criminal law clinical programs throughout the country. Plans are still in the formative stages, but the program will probably be a two-day weekend conference at the Harvard Law School in the fall of 1990.

#### **LSC GRANT RFPs MAILED**

The Legal Services Corporation has recently announced the availability of approximately \$1.1 million to fund proposals received from clinical legal educators. The deadline for applications is April 20,

1990. For the 1990-91 academic year, approximately twenty (20) grants will be issued to geographically dispersed law schools. Applicants may request funding up to \$75,000 for a term up to one year. The Corporation has indicated that this year it will give special emphasis to applications that propose to address the legal needs of LSC eligible clients who are seeking to establish paternity and/or child support.

#### **NEW INTERVIEWING AND COUNSELING VIDEOTAPE**

Professor Michael E. Wolfson of Loyola Law School, Los Angeles, has written and produced a videotape to be used in the teaching of interviewing and counseling skills. The tape contains seventeen short vignettes which explore various aspects of a client interview in a civil matter. There is also a 57 page teacher's manual which discusses the purpose and uses of each vignette. Anyone who has questions about the tape or wishes to order a copy should contact Professor Wolfson at Loyola Law School, 1441 W. Olympic Blvd., Los Angeles, California 90015, (213/736-1000).

#### **Special Request**

Does anyone know Edward Montoya or Anna Morelli? If so, please contact Liz Ryan Cole at Vermont Law School (802/763-8303).

## **AMONG OURSELVES**



**Bea Moulton** (Hastings) was awarded the 1990 Annual Award of the AALS Section on Clinical Legal Education for her contributions to clinical legal education. Making the presentation was Liz Ryan Cole (Vermont).

**Elliott Milstein** has been appointed Dean at American University. He had been the interim dean since 1988.

**John O. Sonsteng** has been named Associate Dean at William Mitchell.

**Laura S. Berend** (San Diego) and **Bill Greenhalgh** spoke at the NLADA Annual Conference in November in Kansas City, Missouri. Their topic: Training Future Cadres - Cooperation Between Law School Clinical Programs and Public Defender Offices. **Shanara Gilbert** (CUNY) was the panel moderator.

**Peter Hoffman** (Nebraska) sent an article from the ABA Journal. The humorous little piece, by Gene Truncellito, describes the first trial of a clinic student from a perspective of twelve years after the event. You can find it at page 72 in the December 1989 issue.

**Minna J. Kotkin** (Brooklyn) is the program chair for a full day symposium - *The Legacy of Goldberg v. Kelly: A Twenty Year Perspective* - sponsored by Brooklyn Law School, The Edward V. Sparer Public Interest Law Fellowship Program, and The Brooklyn Law Review. The symposium is May 4, 1990.

**E. Clinton Bamberger** (Maryland) is visiting the University of the Witwatersrand in South Africa from February to June 1990.

He will develop clinical and legal aid programs.

**Dennis E. Curtis** (Southern California) is the first holder of the Parker Professorship at Southern California.

## **PUBLICATIONS BY CLINICIANS**

**Barkai, John** (Hawaii). "Hawaii Court-Annexed Arbitration Evaluation is the First to Show Cost Reduction to Litigants," 3 BNA's Alternative Dispute Resolution Report 140 (1989) with Kassebaum.

**Barkai, John**. "Using Court-Annexed Arbitration to Reduce Litigant Costs and to Increase the Pace of Litigation," 16 PEPPERDINE L. REV. 43 (1989) with Kassebaum.

**Barkai, John**. "The Impact of Discovery Limitations on Pace, Cost and Satisfaction in Court Annexed Arbitration," 11 U. HAW. L. REV. 81 (1989) with Kassebaum.

**Barkai, John**. "The Lecture-In-Disguise," 18 NEW MEXICO L. REV. 117 (1987-88).

**Cunningham, Clark D.** (Washington University). "A Tale of Two Clients: Thinking about Law as Language," 87 MICH. L. REV. 2459 (1989).

**Dinnerstein, Robert** (American). "Rights of Institutionalized Disabled Persons," in Citizens Commission on Civil Rights, One Nation Indivisible: The Civil Rights Challenge for the 1990s (R. Govan & W. Taylor eds. 1989).

**Kubitschek, Carolyn A.** (Hofstra). "Social Security Administration Nonacquiescence: The Need for Legislative Curbs on Agency Discretion," 50 PITTSBURGH L. REV. 399 (1989).

**Kubitschek, Carolyn A.** "A Re-Evaluation of Mathews v. Eldridge in Light of Administrative Shortcomings and Social Security Nonacquiescence," 31 ARIZONA L. REV. 53 (1989).

**North, Richard L.** (Maryland), "The Duty to Warn 'Dilemma': A Framework For Resolution," 4 AIDS AND PUB. POL. J. 133 (1989), with Rothenberg, K.

**Schrag, Phillip G.** (Georgetown). "The Serpent Strikes: Simulation in a Large First-Year Course," 39 J. LEGAL EDUC. 555 (1989).

## **JOBS**

The University of Alabama School of Law seeks applicants for the Director of Trial Advocacy position, which is to oversee, manage, teach and supervise the overall program. A distinguished academic record, scholarly promise, ability to be an effective teacher and well respected administrator, and substantial litigation experience are required. Rank, tenure and compensation are subject to individual qualifications. Send current resume and references by April 1, 1990 to Dean Nathaniel Hansford, The University of Alabama School of Law, Box 870382, Tuscaloosa, AL 35487-0392.

American University, The Washington College of Law is seeking a visiting faculty member for its live-client clinical program.

Responsibilities include supervising students and teaching the seminar portion of the clinic. Visiting clinical faculty members also teach one additional course in the law school.

Currently, the Washington College of Law offers the following clinical programs: appellate advocacy clinic; criminal justice clinic (prosecution and defense); public interest law clinic and women and the law clinic. The applicant's specific teaching responsibilities will depend on experience, interest and overall needs of the law school's clinical program.

Minimum qualifications include a J.D. degree, outstanding academic record, and four years experience as a lawyer. Desired qualifications include prior experience or training as a clinical teacher, legal publications and participation in AALS clinical teachers' conferences.

Applications consisting of Curriculum Vitae and cover letter should be sent to Professor Candace Kovacic, Chair of the Faculty Appointments Committee, c/o The Dean's Office, with a copy to Professor Robert Dinerstein, Director of Clinical Programs, The American University, Washington College of Law, 4400 Massachusetts Avenue, N.W., Washington, DC 20016. The deadline for applications is April 9, 1990.

**Arizona State University College of Law** is seeking a person to teach in its Law School Clinic for the summer session, from June 1, 1990 to August 15, 1990. (Dates are somewhat flexible.) Teaching responsibilities include supervising 4 to 5 students representing clients in standard government benefits cases, including food stamps, AFDC, Social Security Disability, SSI, unemployment cases, and direct service cases in the Law School Clinic's HIV Legal Support Clinic. Additionally, there is a weekly seminar, which supplements the field work, teaching interviewing, counseling, pre-trial and trial practice skills as well as case discussions. Salary \$5000-\$8000. Contact Prof. Larry Weeks, ASU College of Law, Tempe, AZ 85287-0604, (602) 965-7359.

**Boston University School of Law** seeks applicants for a position as Clinical Associate Professor to teach in its civil clinic by July 1, 1990. Applicants should have at least five years litigation experience. Contact Bob Burdick, Director - Civil Clinic, Boston University School of Law, 765 Commonwealth Avenue, Boston, MA 02215.

**The Thomas M. Cooley Law School** has an opening for a visitor in the legal clinic this summer. The Sixty Plus Elderlaw Clinic is the local Title IIIB provider, offering general civil legal services to the elderly of the tri-county area. In addition, the clinic operates the Medicare Recovery Project of Michigan, pursuing Medicare appeals on behalf of residents of skilled nursing facilities statewide.

The visitor position will begin May 1, 1990, and continue through August 1990. Excellent salary. **APPLICANTS MUST HAVE PRIOR CLINICAL EXPERIENCE.** Contact Professor Marjorie Russell, Acting Director, Sixty Plus, Inc., Thomas M. Cooley Law School, Box 13038, Lansing, Michigan 48901.

**Drake University Law School** invites applications for one clinical faculty position beginning in the 1990-91 academic year. The position is expected to be tenure-track. Excellent academic credentials, the promise of ordemonstrated legal scholarship, and signifi-

cant practical experience are desired attributes. Contact Professor David McCord, Faculty Appointments Chair, Drake University Law School, 27th and Carpenter Streets, Des Moines, IA 50311.

**Indiana University School of Law, Bloomington**, is seeking applicants for a tenure-track clinical faculty position. The primary teaching assignment for this faculty position will be in the School of Law's in-house Community Legal Clinic (CLC). CLC's cases include the full range of private disputes and public benefit matters typical of indigent clients. New developments in the CLC include representing victims of domestic abuse (in conjunction with the School's Protective Order Project) and retaining a mental health professional on staff who will participate in clinic seminars for instruction in mental health issues and will consult with interns on cases where emotional factors constitute a significant dimension of clients' problems.

Applicants should be experienced clinical teachers, graduate students or fellows in clinical education programs, or lawyers with relevant practice experience who have special responsibilities for supervision and professional development. Inquiries and resumes to Edwin H. Greenebaum, Indiana University School of Law, Bloomington, IN 47405 (812/855-4630).

**The University of Michigan Law School** has established a new "Program in Legal Assistance for Urban Communities." The Program is intended to develop creative strategies for helping victims of urban poverty use legal institutions to overcome structural barriers to opportunity.

Each fall, the Program will host a "programming meeting" at which community group leaders, academics, and national advocates will share ideas about feasible projects in which the program's resources could prove valuable. The programming meeting will design an agenda for the Program to pursue during the following year. Law students will help the Executive Director to carry out the agenda and will receive law school credit for their work.

The Program is now looking to hire its first Executive Director, to begin work this summer. Applicants must be attorneys who have experience with a variety of forms of legal assistance to low-income urban groups. Special weight will be given to experience in forms of advocacy that stress legal skills other than litigation (such as community economic development work). Applicants should have strong administrative experience and a desire and ability to work with law students and academics. Salary will be commensurate with qualifications. Applicants should send resumes to: Professor Jeffrey Lehman, University of Michigan Law School, 437 Hutchins Hall, Ann Arbor, MI 48109-1215.

**Saint Louis University School of Law** invites applications for a long term contract-clinical position beginning in the 1990-91 academic year. This position involves the supervision of an in-house civil clinic. Contact Professor Josef Rohlik, Chair, Faculty Appointments Committee, Saint Louis University School of Law, 3700 Lindell Boulevard, St. Louis, MO 63108.

**West Virginia University College of Law** seeks candidates for a small number of permanent or visiting faculty positions including, possibly, trial advocacy and clinical programs, beginning August 1990. Rank and compensation are subject to individual qualifications and experience. Distinguished academic and professional

background, promise for legal scholarship, and some practice or other legal experience are desired. Contact Professor Gerald Ashdown, Chair, Faculty Appointments Committee, West Virginia University College of Law, Morgantown, WV 26506-6130.

*Unless otherwise expressly stated, all of the above have adopted and pursue policies not to discriminate on the basis of race, color, sex, and national and ethnic origin in the employment of faculty and staff, educational programs, admission policies, financial aid programs, and other institution administered programs. These institutions are Equal Opportunity/Affirmative Action Employers and are interested in receiving applications from persons of each sex and all races, religions, and national and ethnic backgrounds.*

## ENDNOTES

by Sandy Ogilvy, Editor

Now that I am reasonably happy with the layout of the NEWSLETTER (improvements are still possible - witness the quality of pictures in this issue), I would like to concentrate more energy on improving the content. The NEWSLETTER should reflect the interests of you, the members of the section. To do this, it is necessary that you contribute to the content of the NEWSLETTER. Your contribution can be very modest, such as reporting on a recent publication of yours or of one of your clinical colleagues, sending a reference to an article or other materials that you believe may be of interest to other clinicians. Or, your contribution can be more substantial, such as offering for publication a short essay on a topic of interest to clinicians. While this could be completely new scholarship, it could also be a revised and shortened version of something you have already written. The possibilities are of course limitless, but I would like to see some pieces generated on (1) clinical scholarship (2) using computers in the clinic, (3) dealing with difference in the clinic, (4) funding strategies, (5) new, revised, or innovative pedagogies, (6) integration of clinical methodology into the traditional curriculum, etc.

While the publication schedule of the NEWSLETTER is not completely fixed, for the past two years there have been four issues. One in March/April, another in June/July, the third in September/October, and the fourth in November/December, just before the annual meeting. Right now, before you put this issue down, take out your calendar and enter some tickle dates to remind yourself to send in your contribution to each of the next three issues.

For the June/July issue, copy should be received by June 22. You may want to give yourself 30-day, 10-day and 5-day reminders of each deadline. For the September/October issue, send your contributions by September 21; for November/December, by November 16.

QUESTIONNAIRE ON CLINICAL CONFERENCES

The newly formed Committee on Alternatives has been considering various complaints and concerns about clinical teaching conferences. There appears to be a general interest among clinicians in having additional conferences beyond those which the AALS is willing to authorize. Particular interest has been expressed in having training conferences on a regular basis for new clinical teachers. In order to help the Committee determine the direction of its future deliberations and activities it would be helpful if clinical teachers would complete this short questionnaire and return it to Mark J. Heyrman, University of Chicago Law School, 1111 East 60th Street, Chicago, Illinois 60637.

NAME \_\_\_\_\_ SCHOOL \_\_\_\_\_

1) Do you believe that your school would provide funding for clinical teachers to attend training conferences sponsored by a group other than the AALS?

\_\_\_\_\_ DEFINITELY \_\_\_\_\_ PROBABLY \_\_\_\_\_ PROBABLY NOT \_\_\_\_\_ DEFINITELY NOT  
\_\_\_\_\_ UNCERTAIN            COMMENTS \_\_\_\_\_

2) Do you believe that there is a need for additional or different conferences for clinical teachers?

\_\_\_\_\_ DEFINITELY \_\_\_\_\_ PROBABLY \_\_\_\_\_ PROBABLY NOT \_\_\_\_\_ DEFINITELY NOT  
\_\_\_\_\_ UNCERTAIN

3) If yes, what should be the subject matter of these conferences?

\_\_\_\_\_  
\_\_\_\_\_

4) On average, how many new clinical teachers does your school hire each year? \_\_\_\_\_ How many of these have had no previous experience as a clinical teacher? \_\_\_\_\_

5) Please describe any general complaints about past clinical conferences and/or any general suggestions about how you think such conferences should be changed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_