Council on Legal Education for Professional Responsibility

NEWSLETTERS

1969-1972

Preface

As the numbers accumulate the single copies of CLEPR Newsletters are difficult to manage for reference purposes. We are, therefore, reprinting the CLEPR Newsletters for 1969-1972 in one volume to make them available in collected form.

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COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

280 Park Avenue • New York, N.Y. 10017 • Phone (212) 697-6800

Vol. I, No. 1, January, 1969

CLEPR ANNOUNCES ITS FIRST NINE GRANTS

The first nine grants awarded by CLEPR will go to nine diversified projects in clinical legal education involving more than two dozen law schools throughout the country. These grants, which total $757,000, will be made for periods ranging from 17 months to 5 years.

Those projects receiving awards will be run by Duke University, the Center for Law and Social Policy in Washington, D. C., the Consortium of Universities of the Washington Metropolitan Area, Harvard University, Northwestern University, Rutgers University, the University of South Carolina, the University of Utah and the University of Wisconsin.

The DUKE UNIVERSITY grant of $19,500 will finance through July 1970 a joint project run by Duke and the School of Law at North Carolina College at Durham, an all-black institution.

North Carolina has only three legal aid offices with a total of less than 10 lawyers. Law students could help strengthen the movement toward legal assistance for the poor through clinical programs for students. In addition, the involvement of black law students should help to broaden their participation in the administration of justice.

(Continued on page 3)

WORD ON CLEPR SPREADS FAST

The word must be getting around the country that CLEPR has something exceptionally good to offer. Although formation of the new organization was announced only last June, by mid-November 54 applicationsfor clinical legal education programs had been received.

These proposals, requesting a total of more than five million dollars, came from state and private schools in 28 states, the District of Columbia and Puerto Rico. Furthermore, the range of proposals was as wide as the geographical spread of their sponsoring schools.
((For close-ups of the first nine grants to be funded, see above)

(Continued on page 8)

CLEPR OFFERS UNUSUAL FELLOWSHIP FOR A RESIDENT RESEARCHER

A fellowship for research in clinical legal education has been announced by CLEPR to provide financial support for full-time work in residence at the Council's New York City headquarters during the 1969 - 70 academic year.

Besides taking part in CLEPR's ongoing program, the fellowship recipient will make field visits to observe and report on clinical education programs and will conduct periodic workshop conferences at CLEPR headquarters for clinical program directors. This work will serve an important educative function for CLEPR and for the law school community as well.

In selecting the winner of this award, CLEPR will give preference to law teachers having sabbatical leave or some other form of financial support to supplement CLEPR's stipend.

For further information, interested teachers should write to CLEPR, 280 Park Avenue, New York, N. Y. 10017. Inquiries should be accompanied by a declaration of financial needs and a statement on the source and amount of assured supplementary support.

DO YOU KNOW ABOUT TITLE IX?

Law schools may be passing up a valuable source of financial support if they do not know about the new Title IX of the Higher Education Act. Under this title, funds are being offered to higher education programs preparing graduate or professional students for public service with Federal, State and local government agencies.

Grants may be used for planning, training faculty, strengthening public service aspects of the curriculum, and carrying out innovative and experimental programs in cooperative education alternating full or part-time academic study with full or part-time public service.

According to CLEPR, this legislation covers programs involving training for public defender positions and employment with district attorneys' offices. Also, says CLEPR, legal training for work in juvenile and family court would seem to be included.

Within the limitations imposed by the small size of its staff, CLEPR will be glad to consult with interested schools on applications to be made under Title IX.

Most schools already know about Title XI which provides funds to expand or establish clinical programs with preference given to programs involving trial practice.

CLEPR ANNOUNCES GRANTS (Continued from page 1)

One long-range goal of the project, therefore, will be to overcome the inertia to meeting these needs by mounting a successful demonstration.

Also, the project will strengthen Duke's curriculum in legal problems of criminal process and trial practice.

The actual operation will involve 10 Duke students and 5 from North Carolina. After their second year, they will serve summer internships with private practitioners and state prosecutors which will emphasize the prosecution and defense of criminal cases. This field experience will be amplified by summer meetings with faculty, subsequent courses in criminal procedure and criminal trial practice, plus supervised research projects on different phases of criminal practice in the state. The program will carry five credits.

An entirely new concept in clinical legal education will be pioneered by the CENTER FOR LAW AND SOCIAL POLICY to be established in Washington, D. C. with the help of a $25,000 grant from CLEPR extending through September 1, 1970.

Operating on a total budget of $300,000, the Center will enroll approximately 20 students, in their fourth or fifth semesters, who will actually take leaves of absence from their schools to spend six months at the Center for a full semester's credit.

With the anticipated support of several national law schools and the likelihood that Arthur Goldberg will be chairman of the board, the project could greatly advance this kind of full-time, long-term clinical experience in the law school community.

At the Center, three students will be assigned to each of seven attorneys, including two law professors. Work will embody group representation, test case litigation, representation before administrative agencies and drafting model legislation. Local cases will be taken in such areas as tenants' rights and representation of juveniles; national practice will involve the operations of federal administrative agencies and the legislative process. Frequent seminars, assigned readings and discussions of new areas for exploration will supplement this work.

When the $25,000 grant, which will pay half the salaries of two law professors, is matched by these professors' schools, CLEPR will entertain an additional application for $65,000.

An important breakthrough for student practice in Washington, D.C. was made in September when a new ruling was passed allowing third-year students supervised by an attorney to represent indigent clients in landlord-tenant and small claims cases.

To take immediate advantage of this ruling, CLEPR has awarded $73,000 through May, 1970 for a litigation clinic to be run by the CONSORTIUM OF THE UNIVERSITIES OF THE WASHINGTON METROPOLITAN AREA which includes American University, Catholic University, George Washington University, Georgetown University and Howard University.

CLEPR strongly supports this type of cooperative clinical effort among law schools, especially in a metropolitan area where each school wants to involve its students in clinical programs with local judicial agencies.

Participants in the Consortium program, seven third-year students from each school, will represent indigent clients in court at least once a week for a full school year. They will be supervised by the clinic director or deputy director or by assisting volunteer attorneys. In addition, they will take part in regular consultations, a research project and weekly seminars on problems of the poor litigant, for a total of four credits.

Moreover, to provide continuity to clinic operations during the summer, one student from each school who volunteered time during his second year will be among the 5 participants selected for summer service.

To keep up with the spiraling nationwide demands for clinical professors to set up clinical legal education programs, CLEPR will give HARVARD UNIVERSITY $175,000 over three years for five graduate fellowships per year to train clinical professors for the law school community.

Harvard is particularly well equipped to undertake such training. For years, the school has trained law teachers, and more recently it has been involved in running the OEO's Community Legal Assistance Office (CLAO) in Cambridge where 140 students are currently gaining clinical experience.

For its new fellows, Harvard will give preference to LL.M. candidates with two to five years of practice since law school. After spending a summer full-time at CLAO, they will become half-time supervisor-interns there while writing their LL.M. paper and taking courses including urban law, clinical legal education and issues in the provision of legal services.

Should the Office of Economic Opportunity not renew its grant to CLAO, Harvard will operate this clinical training program by placing fellows in other neighborhood law offices.

Legal services will be combined with medical and dental care for the 25,000 poor people who use the clinics of NORTHWESTERN UNIVERSITY each year.

To support this unique project, CLEPR has awarded $75,000 through August 1970 so that Northwestern may open a legal services clinic on campus to train law students and provide assistance to users of its medical and dental facilities which are close by.

The program, operated jointly by the Law School and the United Charities Legal Aid Bureau, will also enable the school to renew its emphasis on clinical education. In addition, the new program will vastly improve upon the clinical training which students previously obtained in downtown Chicago legal aid offices with only limited faculty supervision.

Approximately 30 second and third-year students will receive two credits for a half-semester of classroom work dealing with the problems of the poor and a half-semester of clinic practice under two attorneys with faculty status. To help maintain continuity, two students will be paid to work full-time at the clinic during the summer.

Located in the heart of a badly deteriorating city - Camden, New Jersey - the CAMDEN SCHOOL OF LAW OF RUTGERS, THE STATE UNIVERSITY is striving to improve social and economic conditions for poor people in the Camden area and to rebuild and enlarge its facilities and curriculum, making clinical education an integral part.

The $159,000 which CLEPR has pledged on a declining basis over five years will provide financial assistance to third-year students in clinical legal education and will help support a clinical professor. Starting with the second year, the University will assume an increasing share of the financial responsibility each year for payments to students.

Ordinarily, CLEPR grants would not pay students for clinical work during the school year. However, since more than two-thirds of Rutgers-Camden third-year students have to work to support themselves, the clinic program will replace these earnings.

CLEPR considers this grant an unusual experiment, the only one of its kind likely to be subsidized by CLEPR. Its importance lies in the University's willingness to confront the frequently overlooked problem which working students face in meeting the time demands of clinical work.

Approximately 50 third-year students, supplemented at first by second-year students, will work with Camden County Legal Services, Inc. and in the offices of the public defender and city and state solicitor. This clinical experience may be further widened if the New Jersey Supreme Court acts on its expressed willingness to expand opportunities for third-year students to appear in court.

Students in the program, who will receive credit, will be supervised full-time by a professor who will also conduct classes and seminars on social legislation.

In South Carolina the burden of representation in legal matters falls on a bar which is small in proportion to the population at large. With the court's permission, however, students are allowed to prosecute and defend clients without pay. Responding to this

unusually acute need for competent student lawyers, the law school, a part of the UNIVERSITY OF SOUTH CAROLINA located in Columbia, the State capital, is launching a strong clinical program focused on corrections and on juvenile and family problems. One program component, a Corrections Clinic, will delve into the sadly neglected post-conviction side of criminal justice, providing representation of indigent clients eligible for parole from correctional institutions. Meanwhile, a Family Problems Clinic will undertake both prosecution and defense on juvenile matters, another area desperately needing attention.

The program will be funded with the help of a $60,000 grant from CLEPR, given on a declining basis over three years beginning next June. This endeavor represents a great advancement over the school's previous clinical efforts which offered neither credit nor adequate supervision.

The CLEPR grant will pay for two professors to share responsibility for the clinical program, so that full-time supervision is assured. Approximately half the graduating class, sixty-four students (16 per clinic per semester) will take part, earning three credits for each semester's clinical work plus weekly seminars. Also, a summer program staffed by two professors and six students, earning no credit, will operate to ensure continuity.

When the grant expires, the clinics will be phased into an educational program supported by the University and the State agencies involved. Incidentally, all of these agencies have enthusiastically endorsed the new venture.

To increase the range and flexibility of a clinical program funded primarily by the Office of Economic Opportunity at the UNIVERSITY OF UTAH COLLEGE OF LAW, CLEPR has awarded $54,000 to be used through August 1970.

These funds will salary a third faculty member to supervise students working with the Salt Lake County Bar Legal Service, Inc., the local OEO office. This addition will enable the Center's three supervisors - the new attorney and the two presently funded by OEO - to be used flexibly for supervision of practice and for teaching. In addition, the presence of a third attorney will enable the program to expand into new fields and to increase its student participants from 50 to 70.

Under the old program, students could not engage in criminal practice or work in other government law offices. Now, however, students will spend one-quarter of the school year in each of three sections: civil litigation for private clients drawn from legal aid and OEO offices, criminal litigation on the defense side, and supervised placement in local government agencies such as the attorney general's office.

These experiences will be made even more valuable if the Utah Supreme Court passes a rule to permit students to appear in court, as the State Bar has recommended.

To earn credit for their clinical work, students will also take part in seminar-workshops, present a paper and undertake a community project such as aiding tenant unions or educating the community on the law. During the summer, a limited number of students will work full-time at the clinic.

By funding this program, CLEPR also hopes to stimulate more flexibility in the use of OEO funds for clinical legal education and to encourage more Utah faculty members to turn to the clinical program as it expands to include areas of interest to them.

The UNIVERSITY OF WISCONSIN LAW SCHOOL will take a giant step toward reorganizing its program for clinical legal education with the aid of a grant from CLEPR totalling $116,500 through September 1, 1970.

This move will entail both improved clinical training for law students and professors, and better legal services for the poor, delivered primarily through the Dane County Legal Service Center in Madison.

Wishing to perpetuate its tradition of public service, Wisconsin will involve both faculty and students in public and private endeavors, deal with the problems of poverty, and will undertake to make a model of the Dane County Legal Service Center.

Thus 25 students, after taking two special seminars in their fourth semester, will serve full-time summer internships at the Legal Service Center under the supervision of five faculty members who will be exchanging their classroom work for field experience in clinical education.

In the fall, the students will choose between two full days a week at the Legal Service Center and an action seminar to design and implement experimental and demonstration projects. Both will carry credit. Wisconsin hopes to expand its summer and third-year placement agencies to include not only the Legal Service Center but also operations concerned with law enforcement, welfare, community organization, defense and prosecution, mental health, corrections, and juvenile and family problems. Again, field work will be supervised by a clinical faculty member.

Additional student supervision at the Legal Service Center will be provided by two full-time lawyers, both recent graduates.

Three additional grants totaling $134,000 have just been approved by CLEPR. The grants, which will be described in detail in our next issue, were awarded to Arizona State University, Hastings College of Law, and the San Francisco Neighborhood Legal Assistance Foundation (in conjunction with the School of Law at Berkeley).

WORD ON CLEPR SPREADS FAST (Continued from page 1)

CLEPR expects to complete action on pending proposals and to commit currently available funds by March - in time for the 1969-70 academic year. New and re-submitted requests for the 1970-71 academic period should be submitted as soon as funding policies and prospects are clarified under the Higher Education Amendments of 1968.

According to President William Pincus, CLEPR will be able to allocate $950,000 each year for new programs, giving priority to those which involve criminal law and juvenile areas, legal services for the poor, the administration of matters in the lower trial courts, and the linking of schools with public defender, legal aid, and neighborhood law offices.

The average amount of each of the first nine CLEPR grants was $80,000 total, regardless of the length of the grant period. According to CLEPR, this average is not likely to be exceeded in the next round of grants.

Like its predecessors, the National Council of Legal Clinics and the Council on Education in Professional Responsibility, CLEPR is working to make clinic programs a regular part of the curriculum for course credit in most of the law schools approved by the American Bar Association. To this end, CLEPR will also support programs which will train professors to teach courses in clinical legal education and to supervise students taking part in legal clinics.

CLEPR maintains that clinic work not only enhances knowledge and skills, but the experience also broadens the social concerns of both students and faculty, making all participants acutely aware of the need for justice for all citizens, rich and poor.

Furthermore, CLEPR believes that <u>real</u> lawyer's work is essential to truly meaningful clinical legal training. To have students study <u>about</u> legal practice; do only empirical research on a legal process; or to have them do one part-time project involving clinical work, excludes the central component of clinical practice - working face to face over a period of time with clients, and handling their cases from preparation through actual presentation in a court or tribunal.

Thus, says CLEPR, law schools should consider allocating larger blocks of time - two days a week for a full year, for example - for students to take part in clinical programs. Also, schools should make these programs the core of a new part of legal education, building academic features around them, rather than making them adjuncts to the "regular" or "traditional" curriculum.

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COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. I, No. 2, March, 1969

THREE CONFERENCES ON STUDENT PRACTICE RECEIVE CLEPR GRANTS

CLEPR has awarded three special grants for conferences on student practice to be sponsored during 1969 by the University of Chicago School of Law, by the Western Center on Law and Poverty at the University of Southern California, and by the National Council on Crime and Delinquency.

A $21,500 grant will enable Chicago to hold a conference on law student practice in court, to be held in the fall. NCCD will receive $24,500 for a conference on the law student in corrections also to take place in the fall. And a $24,000 grant to the University of Southern California will finance a conference on clinical legal education, law student practice and legal education in general to be held next winter.

According to CLEPR, clinical legal education needs opportunities to expose law students to the full range of the lawyer's experience in our adversary process, including appearances under proper supervision before a court or other tribunal for hearings and determinations. Some 21 jurisdictions have student practice rules set forth by state statute, court rule or both. Spreading interest in clinical legal education is stimulating law schools to promote the establishment of additional student practice rules.

(Continued on page 3)

CLEPR GIVES DETAILS ON THREE GRANTS FOR LAW SCHOOL PROGRAMS

THE ARIZONA STATE UNIVERSITY COLLEGE OF LAW provides CLEPR with an unusual opportunity to support a totally new concept in clinical legal education. Opened in 1967, the College of Law will have its first third year class in September 1969 and therefore has no precedent for its third year curriculum. Thus the school will be able to pioneer an entirely different use of this year, dividing it into four eight-week quadrants and assigning major roles to clinical legal education and field work. The school believes that the quadrant system will enable courses to be scheduled in meaningful sequences and will permit students to spend large, uninterrupted blocks of time on clinical or field work.

To carry out these plans, Arizona has arranged to provide its core curriculum through large classes during the first two years. In this way, the school will save two-thirds of its faculty strength for the third year.

The third year's work will include public service law internships, carrying up to 12

credits, in the legal clinic of Maricopa County, the public defender's office, prosecutor's office, juvenile court, Indian tribal courts and possibly in one or more state agencies. In each location, Arizona will experiment with supervision by resident personnel working with clinical professors.

The CLEPR grant of $85,000, to be used on a declining basis over three years starting in July 1969, will pay for support of a clinical professor. In addition to gradually assuming the cost of this position starting with the second year, Arizona will match the position by hiring another clinical professor so that both will form a nucleus faculty for the clinical third year program. Also, a small part of the CLEPR grant will be used for summer internships preceeding the third year.

Finally, CLEPR hopes that this grant will help those groups, including the State Bar and the University, which are working for a state ruling permitting practice in court.

* * * * * *

In part to encourage the adoption of a student practice rule for California State Courts, CLEPR has awarded $25,000 to the HASTINGS COLLEGE OF LAW, University of California, to be used through July 1970 for a joint clinical program with the Federal Criminal Defense Office, a branch of the Legal Aid Society of San Francisco. This undertaking will enable Hastings to expand its clinical program and to involve a majority of its third year students in representing persons charged with petty offenses appearing before the U. S. Commissioner in San Francisco.

At present, California has no student practice rule, but the CLEPR grant should provide experience relevant to enactment of such a rule, perhaps at the next State legislative session. Under such a rule, students will be able to work with legal problems through the actual representation of clients in California State Courts.

In the Hastings clinical program, 25 to 30 third year students with prior Legal Clinic or Legal Aid experience will take part in a two-credit seminar on Contemporary Clinical Practice. As many of these students as possible will then participate in the clinical phase.

CLEPR's contribution to the program, less than one-third of total costs, will pay a part-time Program Director and Assistant Director at the law school plus part of the salary of the supervising Legal Aid attorney. The College, with the help of Legal Aid, will continue the program beyond 1970 without CLEPR funds.

* * * * * *

A grant of $24,000 through July 1969 will fund an experiment introducing a comprehensive internship program in clinical legal education at the SCHOOL OF LAW, UNIVERSITY OF CALIFORNIA AT BERKELEY which will be jointly sponsored by Berkeley and the San Francisco Neighborhood Legal Assistance Foundation(SFNLAF). The program, emphasizing the law's impact on the poor and its role in social reform, will, if successful, encourage a major commitment at Berkeley to clinical legal education.

SFNLAF is a very large OEO-funded legal program with more than 30 lawyers dealing with all types of legal problems except criminal matters. Working in SFNLAF's neighborhood offices, 20 second and third year students will devote three or four half-days per week doing client interviews and intake. In addition, students will be involved in major "cases" and related activities in either welfare or education. The welfare area would include organization of welfare rights groups, representation at hearings and legislative drafting; education would embrace suspension and expulsion cases and procedures, and equal educational opportunities for minorities. Finally, students will participate in regular seminars focusing on student research and other work. The total program, carrying five credits, marks the first time Berkeley has awarded credit for clinical legal education.

The CLEPR grant, which may be extended if the experiment appears to warrant further support, will be used primarily for the salaries of the faculty supervisor, the SFNLAF director and four or more supervising SFNLAF attorneys.

CONFERENCES ON STUDENT PRACTICE (Continued from page 1)

Yet, while each jurisdiction needs these rules to give full scope to legal education, analysis and discussion of the experience and problems in student practice is also necessary so that existing rules may be improved and new ones set up on the best possible bases.

Thus the Chicago and California conferences will bring together legal educators, lawyers, judges, legislators and others concerned with the machinery of justice, to deal with the general need for additional student practice rules and possible revisions in existing rules.

Whereas these two conferences will be devoted to student practice in general, the NCCD conference will focus on the law student's role in corrections. In this area, special opportunities exist for students to learn and to provide service. Post-conviction proceedings, legal problems of the prisoner and his family, and parole proceedings, for example, offer law students the chance to gain clinical experience and to provide legal services which are now largely lacking. At the same time, students and faculty could positively influence the rehabilitative process by showing prisoners that someone is prepared to advocate their cause. Moreover, further consideration of prison programs in clinical legal education could lead to the creation of new facilities in correctional institutions - law offices for prisoners and their families.

Finally, an all-important by-product of all three conferences will be papers prepared for and resulting from the meetings. These papers will be suitable for publication and for use as teaching materials.

* * * * * *

Although the scope of the Chicago conference will be national, representatives from the Midwest will be especially encouraged to attend. Meetings will take place over two days, tentatively October 31 and November 1, 1969, at the Center for Continuing Education at

the University of Chicago.

The aims of the conference are twofold: 1) to stimulate interest in and action on court rules or statutes for student practice, and 2) to develop resource materials on the history, problems and prospects of clinical education in American law schools, which could be edited into a book.

Approximately 100 persons are expected to participate in the conference. They will receive, in advance,resource papers relevant to clinical education which will provide bases for discussion, although they will not be formally delivered. Among the subjects to be covered by these papers are : 1) The current movement for clinical legal education in the context of the history of American legal education; 2) Can law schools learn from the medical schools? 3) The legal situation - status of rules today; 4) Law students and the criminal defendant; and 5) Existing programs involving student appearances in court.

To conclude the conference, participants will meet by state to talk about possible action in each state. Professor Edmund W. Kitch, of the University of Chicago School of Law, will be conference co-ordinator.

* * * * * *

The Western Center on Law and Poverty at the University of Southern California is sponsored by OEO and supported by the legal services programs and university law schools of southern California - USC, UCLA and Loyola.

The conference will be held primarily for western states and will take place over two days, probably in late November or December at USC. The conference will aim to stimulate thought and discussion on clinical legal education and student practice and to help create a climate for experiment and change. For the event, papers suitable for publication will be prepared, and the USC Law Review has been asked to undertake a symposium on clinical legal education and student practice.

General sessions and panels will be followed by smaller workshop discussions. At the general sessions, the four major topics will be : 1) Goals and directions of legal education; 2) An evaluation of teaching methodologies in legal education; 3) The varieties of clinical experience; and 4) The role of the non-lawyer in the legal process. Gary Bellow, Professor at the USC Law School, will be conference co-ordinator.

Besides having an immediate interest in this conference, southern California law schools also view the event as a first step in considering a consortium approach to bring about basic changes in their curriculum.

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The NCCD conference will bring together top correctional system personnel with judges, attorneys, law school professors and students to discuss roles for the law student in the correctional system - in handling the legal problems of convicted persons and their fam-

ilies. Handling these problems would involve representation and counseling in correctional, criminal and civil law.

Besides examining the law student's capacities for working within the correctional system and determining how the student's role might be expanded, the conference will also encourage correctional personnel to join with law school professors in mounting programs for the benefit of both students and convicted persons.

All conference addresses and workshop discussions will be issued in a book, The Law Student and the Correctional System. Hopefully, the book will provide a framework for expanding direct services by law students.

The main topics of discussion tentatively scheduled for the conference include: 1) Vindicating legal rights in correctional institutions; 2) Representation at parole granting and revocation proceedings; 3) Civil problems of prisoners and ex-prisoners - counseling and representation opportunities for law students; and 4) Representing the institutionalized quasi-criminal, juveniles, narcotics addicts and mentally ill prisoners.

Law professors interested in the subject of the NCCD conference and law students with a background in legal aid or public defender work may request an "Information Review" and/or the book to be based on the conference, by writing to Jeffrey Glen, NCCD, 44 E. 23rd St., New York, N.Y. 10010. Requests should be accompanied by a description of the program in which the writer is engaged and its relation to the correctional system.

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IMPORTANT NOTICE

CLEPR is now entertaining applications for clinical legal programs beginning after December 31, 1969. Applications should be filed by June 15, of this year. The deadline for the first grants for programs starting after January 1, 1970 is August 15. No special requirements as to proposal format exists.

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No appropriations for Title XI of the Higher Education Act have been recommended in the President's Budget. This title authorizes funds for law schools to establish or expand clinical legal education programs with preference given to programs involving trial practice. The authorization had called for an appropriation of $7,500,000 for the fiscal year beginning July 1, 1969. CLEPR hopes an appropriation under Title XI will be made.

William Pincus----------President, CLEPR
Basil N. Apostle----------Editor
Tony Levi----------Editor

SIXTIETH ANNIVERSARY OF LAW STUDENT PRACTICE IN COLORADO

When the first statute authorizing student practice was enacted in Colorado in 1909, most state courts, legislatures and bar associations did not view student clinical programs very cordially. Even by 1960, only seven jurisdictions had approved programs for student representation of clients, and many of these plans were very narrow in scope.

The decisions in Gideon V. Wainwright and In Re Gault and the passage of the Economic Opportunity Act of 1964, however, focused the attention of the legal profession on the need of indigents and juveniles for legal assistance. The tremendous case-load, the oppressive attorney-to-case-load ratio and the high cost of representing indigents and juveniles have all contributed to increased reliance on law students. Since 1960, 13 additional states and the District of Columbia have enacted statutes or rules allowing law students to practice.* The momentum was aided by a resolution adopted by the American Bar Association in 1967:

> Be It Resolved, That the American Bar Association approves, in principle, the promulgation and adoption, by rule of court or other appropriate and proper means, of provisions permitting students in the final year of a regular course of study in an approved law school to appear in court, under adequate supervision by members in good standing of the pertinent Bar, on behalf of indigent persons or the prosecution in both criminal and civil matters in connection with the stated functions of Public Defender, Legal Aid and like programs.**

In as much as the most pressing and most ignored needs for legal services involve the poor, the social significance of student representation is of high visibility and importance. However, although service to society is important, legal educators stress that law schools should also be concerned with the educational benefits provided by these programs. Thus, expanded student participation seeks to meet two pressing needs of present-day legal education: to provide some form of practical legal experience and to retain the interest of second and third year law students by involving them in a meaningful, curriculum-related program.

Howard R. Sacks, former Executive Director of the National Council on Legal Clinics and now Dean of the University of Connecticut School of Law has written:

> The great virtue of student experience in a legal aid clinic, working with live clients on live problems, is that it is real. . . . And, if an experience seems real, the beneficial effects on students are likely to be several: Students have more interest in the subject matter, and are better motivated to learn.

* See Figure 1

** A model court rule for students was adopted by the ABA House of Delegates in January, 1969.

Furthermore, expanded student participation would encourage the development of new courses combining academic and practical studies for students who are often less than a year away from representing their own clients in court as full-fledged attorneys. In these advanced courses, students would find immediate application for learning and could discuss in class the problems arising from their practical experiences.

Colorado, the first state to enact a statute authorizing student practice, has one of the largest legal clinical education programs in the country. Since 1909, the law schools of Colorado have made great strides in establishing and conducting clinical programs involving student practice. In addition to handling legal aid civil cases, consisting largely of domestic relations and landlord-tenant cases, students appear in juvenile cases and as both defense counsels and prosecutors in a number of state and Federal criminal courts.

In one criminal misdemeanor program, any student declared eligible by his law school may handle the entire case including the argument and the examination and cross-examination of witnesses, without supervision by a member of the bar. This may raise questions about adequacy of supervision from the educational viewpoint, but the practice suggests how far student participation may be encouraged at least for experimental purposes.

Today, Section 12-1-19 of the Colorado Revised Statutes allows:

> Students of any law school which has been continuously in existence for at least ten years prior to the passage of this section and which maintains a legal aid dispensary where poor persons receive legal advice and services, shall when representing said dispensary and its clients and then only be authorized to appear in court as if licensed to practice.

This statute is remarkable, primarily for its breadth, because it places no limitation on the student's activities in the civil area, no matter what year of law school he is in, except to require that he represent a legal aid clinic run by his law school.

In the criminal area, the Colorado provision and practices allow the broadest student representation in the United States. Rule 144 of the Colorado Rules of Criminal Procedure permits senior law students to represent indigent defendants in the County Courts:

> If, upon the defendant's affidavit or sworn testimony or other investigation the court finds that the defendant is financially unable to obtain counsel, an attorney or senior law student of an approved law school may be assigned to represent him at every stage of the trial court proceedings.

The University of Denver College of Law, taking advantage of the broad enabling statute and rule, affords its students a unique opportunity to engage in the practice of law through a broadly-based student practice program. In conjunction with comprehensive, specially designed courses, internships in actual practice situations enable the law student to see

the law in action in the areas of legal counseling, negotiation settlement and trial of civil and criminal cases. Similar internships allow participation in the judicial and legislative functions of government.

The Law College, acting on the recommendation of a Faculty-Student Committee on Practice Programs, has substituted for the old student practice programs a co-ordinated and supervised series of experiences, integrated with specially designed courses and seminars. Students may earn up to six hours credit on a pass-fail basis in the County Court, Legal Aid and District Attorney Internship Programs.

The curriculum at the University of Denver College of Law is similar to the curricula of medical schools throughout the country which give their third and fourth year students intensive experience in teaching hospitals. In contrast to doctors, however, lawyers are not generally required to have participated in any sort of internship program before they are admitted to practice; the typical law student, as opposed to the typical medical student, goes through three years of formal education without ever having any meaningful contact with the practical aspects of the legal system.

The time has come for developing comprehensive cooperative law school programs, together with broad statutes or rules enabling student practice, to give clinical experience to law students. The courts, legislatures and local bar associations should have recognized by now that clinical work by law students, including advice to clients and actual trial of cases, does not involve the unauthorized practice of law so long as the program's primary purposes are education of law students and service to community. These goals would be guaranteed by providing that students receive no pay for their services, that they work under the supervision of members of the bar, with law schools accepting responsibility for adequacy of supervision, and that the program serves a charitable or public purpose.

Figure 1-Jurisdictions Allowing Students To Practice

1	Colorado-	Rev.Stat.§ 12-1-19(1963); Rev. Crim.P.County Cts.R.144(1965)
2	Connecticut-	De Facto; Cir. Ct. R.§ 894(1963)
3	Florida-	R. Crim. P. 1.860(1968)
4	Georgia-	Code of Ga. § 9-401.1(1967)
5	Illinois	N.D. Ill. Gen. R. 41(1964)
6	Iowa-	Sup. Ct. R. 120(1967)
7	Massachusetts-	Sup.Jud.Ct.R.3:11(1967); Dist.Ct.R.58(Small Claims P.)(1965)
8	Michigan-	Sup.Ct.R. 921(1965)
9	Minnesota-	Sup.Ct.R. June 27, 1967
10	Montana-	Rev. Code of 1947, §93-6704; Sup.Ct.R. June 23, 1966
11	Nebraska-	Rev. Stat. §7.101.01 (Supp. 1967)
12	New Jersey-	Sup. Ct. R. 1:12-8A (c)(1964)
13	New Mexico-	Stat. Ann. §18-1-26 (Supp.1968)
14	New York-	Judiciary Law §§ 478,484 (McKinney Supp. 1967)
15	Oklahoma-	Sup. Ct.R. May 29, 1967 (S.C.B.D. #2109)
16	Pennsylvania-	Sup. Ct.R. 12 1/2 (1965)
17	South Carolina-	Code of Laws § 56-102 (1962)
18	Tennessee-	Sup.Ct. R. 37 § 21 (1967)
19	Texas-	De facto
20	Wyoming-	Bar Rule 18, Adopted by Sup. Ct.
21	Washington,D.C.-	D.D.C. R. 2 (1968)

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. 1, No. 3, April, 1969

CLEPR AWARDS NINE NEW GRANTS

To firmly establish a clinical legal education program which will have a major impact on an area beset by decay and other severe urban problems, CLEPR has awarded $30,000 to the SCHOOL OF LAW OF VALPARAISO UNIVERSITY, to be used on a declining basis over three years beginning June 1, 1969.

Valparaiso is located 25 miles from the twin cities of East Chicago and Gary, Indiana. The Law School, with a faculty of 11, draws most of its 152 students from the midwest where most of them later enter private practice with small firms. In the new clinical program these students will be exposed to the challenges facing the attorney who serves the urban poor.

The program will service Lake County, Indiana, one of the world's great industrial complexes. Since the 1967 election of Mayor Richard Hatcher, an alumnus of the Law School, progress has been made in meeting the area's problems. However, with the opening of several OEO-funded legal aid offices, the Legal Aid Society of Gary reports a tremendous need for student and Law School involvement in providing legal assistance to the poor.

(Continued on page 3)

CLEPR TO HOLD FIRST TWO CLINICAL EDUCATION WORKSHOPS

CLEPR's first two workshops on "Current Programs in Clinical Legal Education" will be held on October 6 and 7 and November 11 and 12 at CLEPR headquarters, 280 Park Avenue in New York City.

At each of the two-day sessions, six men who have been involved as teachers in clinical programs in law schools will discuss problems and issues within this area. Only a few guests will be invited to these sessions, but CLEPR will issue a summary of highlights which will be available to all law school teachers.

Participants in the October workshop will be James Bailey of Boston University, Gary Bellow of the University of Southern California, John Ferren of Harvard, Joseph Harbaugh of the University of Connecticut, Robert Oliphant of the University of Minnesota and Robert Spangenberg of ABCD, Boston.

(Continued on page 2)

At the November workshop, those taking part will include John Bradway of California Western University, William J. Lockhart of the University of Utah, Joseph Slowinski of Seton Hall University, Edward Sparer of Yale, James Thompson, formerly of Northwestern, and Robert Viles of the University of Kentucky.

CLEPR will continue to hold several workshops each year to promote ongoing exchange of information and ideas on clinical legal education. The summary of the discussions to be published should be useful as teaching material in clinical legal education.

CLEPR AWARDS RESIDENT RESEARCH FELLOWSHIP TO LESTER BRICKMAN

Lester Brickman, Associate Professor of Law at the University of Toledo College of Law, has been named recipient of the CLEPR fellowship for research in clinical legal education. The fellowship, first of its kind to be awarded by CLEPR, provides partial financial support for full-time work in residence at the Council's New York City headquarters during the 1969-70 academic year.

Besides taking part in CLEPR's ongoing program, Mr. Brickman will make field visits to observe and report on clinical education programs - a function which he has already performed as consultant to the Office of Economic Opportunity on its legal services programs. In addition, he will assist in conducting periodic workshops at CLEPR for clinical program directors.

Receiving the CLEPR fellowship is not Mr. Brickman's first contact with the organization. Two years ago, he instituted a clinical program at the University of Toledo with the help of a grant from CLEPR's predecessor Council. He has directed the program since that time, while teaching a variety of subjects including "Law and Poverty" and "Legal Education." In addition, he has helped bring about the inclusion of several clinical courses in the Toledo curriculum.

A graduate of Carnegie Tech, Mr. Brickman earned his LL. B. from the University of Florida, where he was a member of the Law Review, and his LL. M. from Yale, where he was a Sterling Fellow.

In announcing the award, CLEPR President William Pincus said, 'Mr. Brickman has shown, early in his promising career, an unusual dedication to the involvement of law schools in clinical legal education and to its concomitant - the improvement of the machinery of justice."

William Pincus - - - - - - - - - - - - - - - - - President, CLEPR
Toni Levi - Editor
Basil Apostle - - - - - - - - - - - - - - - - - - Editor

The program funded by CLEPR will expand the Law School's present work with Legal Aid, instituting a more comprehensive structure with greater supervision. Entitled "Legal Problems of the Poor," the course will be offered to second and third-year law students as a regular, credit-carrying part of the curriculum. Both field and class work will be included.

In the field, students will work a minimum of six hours per week in one of three placements where they will be co-counsels with participating attorneys on actual cases through settlement or final resolution in court. In the Legal Aid offices in the low-income neighborhoods of Gary, East Chicago and Valparaiso, student involvement with community organizations will be emphasized. Students assigned to the Gary District Attorney's office will work on a special code enforcement project which will affect private landlords in midtown Gary, while students assigned to the Public Defender Program will look to the legal rights of defendants in courts which have lacked an active public defender program.

In the classroom, students will receive the theoretical foundation for and assimilate the results of field work. Special attention will be given to legal areas relevant to the poor and to recent developments in welfare, housing, juvenile matters, community finance, etc. On alternate weeks, problem-solving and theory-developing sessions will center around experiences related to students' field work.

* * * * *

To provide needed faculty supervision for a legal clinic run by the UNIVERSITY OF CONNECTICUT SCHOOL OF LAW, CLEPR has awarded $29,700 for the year beginning June 1, 1969 to enable the clinic to hire three interns to assist the program's two co-directors. Besides filling an immediate need, the interns also represent a potential source of clinical law professors.

These interns, graduates of the Law School and members of the State Bar, will supervise law students working at SAND (the South Arsenal Neighborhood Development Center), a neighborhood legal office for the poor in northern Hartford. The office is run by the Law School and by the Board of Student Public Defenders and Legal Assistants, a volunteer program operated largely by students.

In the new program, 16 to 32 second year students each semester will take a two-credit course consisting of 5 to 8 hours per week of field work at the clinic plus weekly one-hour seminars dealing with civil cases. Third year graduates of this course will take a year-long, two-credit field and classroom course involving criminal cases.

Throughout both courses, interns will closely supervise all students, who will be assigned two-to-a-case, and will confer frequently with them. The project co-directors, full-time faculty members devoting half-time to the clinic program, will periodically participate in these discussions. Besides administering the program and supervising the interns, the directors will also guide the seminars which will provide both discussion of recent experiences and broader examinations of criminal and poverty law.

Part of the CLEPR grant will also pay faculty members involved in the three-month sum-

mer orientation program which the interns will receive.

With the University expressing strong interest in the community problems of northern Hartford, the Law School believes that funds will be found to continue the program after the grant expires.

* * * * *

A second grant to the UNIVERSITY OF CONNECTICUT SCHOOL OF LAW consists of $4,650 to support the development of new teaching materials in the law of contracts for small sections of students. The new materials will deal with such matters as professional responsibility and will also reorient the course content in part toward the problems of the poor and the middle class.

Small teaching sections, instituted for freshmen by the Law School this year, will serve as the testing ground for the new materials, beginning September 1969. Based on such trials and possibly on additional testing with students in the clinical program, the materials will be revised and retested over approximately two years. Professor Robert Bard and the two colleagues working with him on the project expect to produce a manual for small section teaching based on the materials they have developed.

* * * * *

A $14,500 grant to the UNIVERSITY OF MAINE will enable the LAW SCHOOL to hire a clinical professor of law to supervise its clinical program and thereby to increase the number of participating "law student assistants" from 8 to 35. The grant will cover one year beginning August 1, 1969.

The University of Maine has the only law school serving northeast New England, and this lends added significance to the clinical legal education program being established there. After the CLEPR grant expires, the law school expects to be able to fund the program itself.

Under the new arrangement, 35 second and third year students will spend 8 to 10 hours per week clerking in Portland's OEO legal services agency, Pine Tree Legal Assistance, Inc. In the past, only a few student volunteers worked at the office. With the addition of faculty supervision, however, students will receive course credit for this work - plus individual conferences and weekly seminars to discuss field experiences. Also, as the program develops, clerkships in prosecutors' offices will be arranged.

The program will aim to give students maximum exposure to direct practice experiences. Furthermore, the law school has proposed legislation and court rule changes which would permit limited practice by senior law students in Maine. The proposal has been well received.

* * * * *

The UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW will receive $3,000 from CLEPR to

pay a faculty member during the spring and summer of 1969 for part-time work on developing a clinical program at the law school in conjunction with a study of revision of the Mississippi court system. The study is being made by the newly created Mississippi Judiciary Commission with the assistance of the school.

The CLEPR grant is intended to help coordinate these activities so that the new clinical program may be meshed with court rules enabling students to practice under supervision.

What happens at the University is particularly important to state residents, because Mississippi is the only law school in a state where law school graduation equals membership in the bar.

Also, because of the state's rural nature, the Mississippi project should yield valuable information on planning clinical programs for non-urban areas. Moreover, if Mississippi is to provide students with clinical work involving a variety of situations, students will have to be placed with practitioners away from the city where the school is located.

In spite of such obstacles, however, Mississippi is considering structuring the entire third-year law school curriculum around a clinical program.

* * * * *

A $40,000 grant, given on a declining basis over three years from July 1, 1969 to May 31, 1972 will enable the UNIVERSITY OF MINNESOTA LAW SCHOOL to hire a clinical professor of legal education to become full-time advisor to the school's Legal Aid Clinic.

Since its inception in 1957, the Clinic has grown from a student-run, extra-curricular activity to a regular, credit-carrying part of the Law School curriculum.

In 1967, as a result of the Clinic's efforts, the State Supreme Court promulgated a Student Practice Rule allowing supervised third-year students, certified by the Law School to the State Supreme Court, to appear in state court on behalf of indigents. At this point the Clinic began servicing not only University students but also the neighborhood poor. This innovation attracted so many students to the Clinic that more than half the student body is now participating.

Also in 1967, the Minnesota Public Defender relocated in the Law School, and close working relationships developed between his office and the Legal Aid Clinic. Through the CLEPR grant, the assistant State Public Defender, Mr. Robert Oliphant, will become the Clinic's Legal Advisor with faculty status. In this capacity, he will be able to provide the supervision necessitated by both the increase in student Clinic enrollment and the expansion of the Clinic's jurisdiction.

The Clinic has been run by four Student Directors elected by Clinic participants. Under the new arrangement, second year students, who are restricted to civil matters, will consult with both Student Directors and the Legal Advisor before counselling clients. Where necessary, a third year student will take the case into litigation.

Third year students who have taken part in Clinic activities may work on criminal cases, defending poor people who have committed misdemeanors, before the Minneapolis Municipal Court with the Legal Advisor present. These students will now have the benefit of close supervision and attention from the Clinic's Legal Advisor.

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An experiment involving full-time clinical participation by law students at the NEW YORK UNIVERSITY SCHOOL OF LAW will be conducted from June 1, 1969 to July 1, 1970 with the help of a $25,000 grant from CLEPR.

Under the program, six to eight students in their fourth or fifth semester will spend one semester plus the adjacent summer working full-time on one of several criminal law projects approved by the Law School. Most of these operations will be under the aegis of the Vera Institute of Justice, well-known for its pioneering work in reforming the bail system and other aspects of criminal law.

Academic credit will be based on evaluation of field work, participation in several group sessions and written papers. Full-time supervision will be provided by an N. Y. U. faculty member and by Vera. A substantial part of the clinical training will be devoted to the role of a lawyer with clients in each assignment area. The areas to be stressed include plea bargaining, improved operations in criminal court, and the problems of bail and preventive detention.

Besides paying the salary of the faculty advisor, the CLEPR grant will provide summer stipends to free participating students from other employment.

Based on this experiment, N. Y. U. - and perhaps other law schools as well - will consider whether to make full-time clinical legal education a permanent part of the curriculum. New York City's Mayor John V. Lindsay has already voiced his approval, saying that such full-time commitment will substantially strengthen both legal education and the machinery for criminal justice at the same time.

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A $20,000 grant to the OKLAHOMA BAR ASSOCIATION, for the year beginning February 1, 1969, will provide partial support for a program to coordinate, broaden and evaluate legal internships at the State's three law schools,located at the University of Oklahoma, Oklahoma City University and the University of Tulsa.

Motivated by a concern that law students have some practical training before admittance to the Bar, the Oklahoma Bar Association in 1964 created a Legal Internship Committee. The Committee recommended an experimental program, and the Supreme Court subsequently adopted rules granting students limited license to practice during the last half of their third year. The promulgation of these rules also involved the cooperation of the law schools, the Board of Bar Examiners and the Oklahoma Bar Association's Board of Governors.

Since the fall of 1967, 53 students have been granted limited license. The current 24 interns are about equally divided between the public and private sectors.

Most of the CLEPR grant will pay the salary and expenses of Professor Ralph C. Thomas, of Tulsa University, part-time coordinator of the legal internship program since its inception. Because of the grant, Professor Thomas will be able to devote full-time to the program - an arrangement which is expected to produce a number of results.

First, the program will be enlarged beyond the 24 students now involved and will carry two credits. Second, the project director will work with all three schools to further integrate clinical work into the curriculum and to involve more faculty members in providing supervision and counselling. Furthermore, more placements will be made in the public service sector: legal aid, Attorney General's office, District Attorneys' and public defenders' offices, and other public agencies.

In addition, supervision will be given to placements with private practitioners, and more public service work will be required on such assignments. Also, as a result of the program, the student practice rule may be made more flexible.

If clinical work becomes a mandatory component of legal education in Oklahoma, this project may suggest the benefits of putting clinical legal education in Oklahoma primarily under the aegis of legal educators.

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The YALE UNIVERSITY LAW SCHOOL will receive $20,000 from CLEPR to be used between August 1 and December 31, 1969 to set up a clinical legal education program.

Since 1966-67, as a result of student interest, first year students in their second semester have been able to participate in a student-run Legal Services Organization for two hours of credit. Under this arrangement, students take a pre-participation course to prepare them for work in various programs providing legal aid to the poor in the New Haven area. In their second year, students work on actual cases with a number of outside organizations.

Despite the advantages of this program, its structure has not provided students with sufficient educational benefits and full opportunity to examine legal services in action. Students usually see only bits and pieces of cases and often find themselves confined to research.

The new program will set up a Yale Law School Clinic, called Yale-New Haven Legal Services, out of which the Legal Services Organization will operate. Students will work in the Clinic's storefront offices rather than be farmed out. Thus they will receive better supervision and will be able to stay with a case from beginning to end, assisting the attorney handling the case and receiving instruction from him as well. Furthermore, attorneys will limit intake of cases to those which are better vehicles for clinical instruction as well as being of service to the community.

Located near the Law School, the Clinic will provide legal services to residents of the New Haven area. The chief faculty advisor, an Adjunct Professor of Clinical Instruction, will oversee the pre-participation program, lead regular discussion groups, and supervise and coordinate Clinic activities other than the actual litigation under the control of the practicing attorneys. He also might work on some cases himself.

In addition, the advisor will try to increase academic feedback of clinic activities by relating them to existing courses and helping interested faculty members to start new courses utilizing the Clinic's resources.

TEACHING MATERIALS AVAILABLE

Free copies of the following materials are available to law teachers and for distribution to students for use in law school courses:

Civil Litigation and Professional Responsibility. By Ted Finman, Professor of Law, University of Wisconsin, 1966. 125 pages.

Problems Illustrative of the Responsibilities of Members of the Legal Profession. By Robert E. Mathews, Professor of Law, University of Texas, Revised Edition, 1968 and Second Revised Edition, 1968. 263 pages.

Professional Responsibility Problems Relating to Mortgage Transactions. By Theodore Smedley, Professor of Law, Vanderbilt University. 30 pages.

Report of the Joint Conference on Professional Responsibility of the AALS and the ABA, 1958. 16 pages.

Defending the Unpopular Client. By Howard R. Sacks, Dean, University of Connecticut School of Law, 1961. 39 pages.

In the Matter of Hoffman A. Sharswood, a Member of the Bar. A problem case developed by the National Council on Legal Clinics. A memorandum for teachers is available.

Problem Case on Professional Responsibilities of the Advocate. Developed by the Harvard Law School. Materials include: The Harvard Teaching Notes, the Report of the Joint Conference on Professional Responsibility of the AALS and the ABA, and a memorandum for law teachers.

Moot Court Problem on Unauthorized Practice of Law. Developed at Northwestern University Law School.

Professional Responsibility Problems in Family Law. By Theodore A. Smedley, Professor of Law Vanderbilt University, 1963. 60 pages.

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Vol. 1, No. 4, May, 1969

A STATEMENT ON CLEPR'S PROGRAM

Although CLEPR opened its doors for business, so to speak, only last September we can testify from our experience that legal education is undergoing a searching examination by those involved. In an "activist" era like the present, in an age of change, reform of the law school curriculum becomes the "in thing" with some, and questionable in the eyes of others as a fad of the times.

However, the fact that many forces are pushing the university in the direction of reform in no way detracts from the validity of the search for improvements which will better serve legal education and the society. Institutions, like individuals, require the pressure of outside forces to make them change for the better. This need not mean a sacrifice of integrity; only a recognition of the value of social corrective forces. With CLEPR's specialized interest in clinical legal education we recognize that in a sense we are the beneficiaries of the present general movement for reform in the university world. An asset in many ways, this situation has its other side too: it makes more imperative the emphasis that new programs be educationally sound and professionally relevant, as well as being socially progressive.

With these matters in mind it will be useful to say some things specifically about the nature of CLEPR's program and what we hope to accomplish: what we are and what we are not. CLEPR is almost exclusively a "grant-making" philanthropy, at least for this period of its existence. We give money, almost always to law schools, to encourage experiments in clinical legal education. CLEPR does not itself operate programs or make grants to individuals.

CLEPR is not an agency whose first interest is the change of social institutions generally. Our concern focuses on, and our mandate for change now is in, one part of higher education. The part we are especially concerned with, as our title indicates, is the law school and legal education. With the number of ABA-approved law schools exceeding 140 we believe that our resources, financial and staff, are modest compared to the task. As attractive as other "socially relevant" projects may be, we have to underscore the fact that CLEPR is not a general purpose foundation, even within the field of law and the administration of justice. CLEPR intends to make its contribution by concentrating on its assigned mission - the encouragement of clinical experience as a regular part of law school education. We expect such clinical legal education programs to make unique and valuable contributions to the improvement of the machinery of justice, first in CLEPR's present areas

of priority for clinical experience: criminal law, juvenile law, and programs of legal services generally to those most in need and least able to afford them. We would also like to see clinical programs in other areas of law, preferably in a public service setting, and we hope to give these our attention too.

Our bailiwick is legal education and the law schools. We would fail them, and in the process add little of significance elsewhere, if we did not keep our mission clear for everyone and our operations consistent. No one else is working on the same track. No other philanthropy is now concentrating in the field of legal education.

In dealing with law schools and legal educators we find a lack of clarity about what constitutes clinical legal education. We would expect this to be so. The field is new and experimental. However, CLEPR does have a point of view. We believe that clinical experiences in law school should have the lawyer-client relationship included. It need not be the sole element of the extra-classroom work. But the lawyer-client relationship cannot be excluded and have a program properly be considered a clinical experience in law school, when future members of the bar are being prepared for their professional careers. CLEPR recognizes that not every graduate of the law schools is going to practice law in the traditional sense. But unless and until the law school changes its primary mission there can be no neglect of the lawyer-client relationship in clinical legal education. Moreover, even if law schools are viewed most broadly as providing education in the law as contrasted to education and training for practice of law, it remains necessary to provide this kind of exposure. For "the law" and legal process inevitably include the protection and assertion of individual rights and the correlative enforcement of individual responsibility.

Viewing the law from the social science viewpoint does not substitute for the special lawyer-like experience. The law school may prepare scholars and persons who go into a myriad of activities. So do other parts of the system of higher education. Only the law schools can provide the special education and training for those roles which only a lawyer can perform, and through which the lawyer can affect the system of justice in a special way. Thus the centrality of the lawyer-client experience in clinical education.

So far as society is concerned it sorely needs the services which only law students and their professors can provide in the great mass of individual cases involving the "little man." These will not disappear entirely no matter what improvements are made in society at large, or in the machinery of justice itself. It behooves legal educators and law students to learn that they will be great movers of social forces if they act forcefully and directly where their talents and position give them strategic influence on what nowadays appears to be the small matter of obtaining justice for an individual. But appearances can be, and in this case are, deceiving. Fighting for justice for an individual is essential for the individual and for the society if it is to continue to be a society worth living in. If lawyers don't do this, who will? And the regular participants in the machinery of justice need incentives to spruce up on their own performance and keep the machinery up-to-date. One of the best incentives would be the regular appearance on the scene of a fresh crop of law students.

CLEPR encourages field experience as an adjunct of, or in addition to, lawyer-client work.

Empirical research, observation, and participation in the work of a variety of agencies may properly be built around a clinical experience. And, of course, seminars and class work relating to clinical and field experience help to strengthen each. A sequence of experiences may be developed so that the law student sees first hand how his lawyer-like work fits into the web of social, political and institutional relationships. But the learning experience in law school should at least fix clearly the distinction between what the law student can and should do in his professional work which no one else can do, and the kind of work in social analysis and work performance which is shared with students from other disciplines and with ordinary citizens. All of us lawyers know that we can do anything better than anyone else. But if we shoemakers don't tend to our last, no one else will. And can we really explain away such a failure of professional responsibility even with the best of social rhetoric and educational jargon?

At this point it may be well to point out that CLEPR does not view its task as that of reform of the entire law school curriculum. Ours is a small goal of experimentation to see whether and how much clinical legal education ought to be incorporated in the curriculum. If clinical education is worthwhile, the law schools will have to decide what part of the curriculum to devote to it, and in what ways. CLEPR does not ask a law school to provide a plan of total curriculum revision. We are interested solely in the detail and soundness of the particular clinical experiment -- be it one course or more. However, we do ask law schools, especially in the rarer situations where clinical involvement by students has proliferated in an uncoordinated manner, to give attention to organizing the clinical experiences into a coherent whole susceptible to better supervision for educational purposes. CLEPR's twenty-four grants to date have averaged about $50,000 each per project (not per year). Even with the contribution required from the recipient in almost every case, the relatively small amounts of money involved make it clear that we are working on experiments. CLEPR is not in a position to finance wholesale curricular revision.

Many law students, with some help from faculty, have been engaged in clinical extracurricular activities. We are at the point where the logical next step is to take them in and see whether there is a valuable educational experience here. Since CLEPR is interested in serious experiments to see whether and how clinical legal education fits into the law school curriculum, CLEPR requires that students receive some credit for the clinical experience. We also require that the supervisor - the clinical professor - have recognized status in the law school faculty.

Almost all law schools now are willing to give some credit and to accord some recognized faculty status to the clinical supervisor. Of course, no special action is required if a faculty member who already has otherwise obtained his credentials takes on the clinical job. CLEPR does not specify the amount of credit nor the title and tenure to be given to the supervisor. But we are aware that these matters do plunge faculty and students into real dilemmas for now, and these dilemmas provoke the kind of examination of legal education which should be productive.

There is for the present a built-in conflict between the open-ended time requirements of clinical work and the other course and examination obligations of students and faculty.

CLEPR and a number of law schools are aware of the need for a larger trial of clinical work, mitigating the time conflict just described. Is it enough to make two or three full days a week available exclusively for clinical work, redesigning and scheduling classroom work accordingly? How fast should we move to experiments, already under way, where a semester or more are exclusively given over to clinical work? And should clinical time be made available before the last semester, so that the student brings his clinical experience back into the last part of his other work in the law school? CLEPR expects to favor full-time trials with clinical work, especially if under the Higher Education Act Title XI money becomes available for other clinical programs. We hope more law schools will try full-time experiments.

For the same reasons of serious commitment and deep involvement, CLEPR believes that summer clinical experience should not stand on its own. It should be a part of, an extension of, work in the regular academic year. Otherwise it really is not being tried in the regular law school curriculum. CLEPR will not finance exclusively summer programs.

Any full-time program raises the matter of the working student who has an outside job. During the period of his clinical experience he must be free of outside job obligations. If the less affluent student is not to be excluded, some kind of financial aid will have to be considered. CLEPR funds are not sufficient to meet this problem. The law schools will have to turn their attention to this problem. Among measures to be considered is the amendment of Title XI to authorize such financing, along with an increase in the present authorization of funds under Title XI. Obviously, legal education will become more expensive if clinical experience is incorporated in any significant way. How to finance such education is a matter of high priority.

Like any philanthropy, CLEPR can only help to initiate experiments in the law schools. Part of the experiment involves a sharing of cost of the experiment by the law school so that, if successful, the school is at least in a position financially to continue the program beyond the grant period without repeated aid from CLEPR. Thus total support from CLEPR is limited at best to the first six months to a year of any project, and is conditioned on early financial contribution from the receiving law school. CLEPR does not make grants for total support of any project beyond the first year.

CLEPR is learning about clinical legal education as the law schools accumulate experience. The foregoing statements and observations reflect our views at this writing. We hope this statement will serve as a guide to law schools, whether or not they apply to CLEPR. We have not attempted to cover all the issues in clinical legal education, one reason being that at this point not all of them are apparent. We have attempted, as a start only, to set forth what we believe will be most useful to those in legal education who are interested in the potential of clinical legal education as a part of the law school curriculum, and who will, therefore, have questions about CLEPR's program. We look forward to continuing our work with legal educators, law students, and others concerned with the future of legal education.

William Pincus, President

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Vol. II, No. 1, September, 1969

EDUCATIONAL VALUES IN CLINICAL EXPERIENCE FOR LAW STUDENTS

In our Newsletter of last May (Vol. I, No. 4) we gave an overall view of the place of clinical legal education in the law school curriculum and in relation to the reform of the machinery of justice. In our continuing conversations with legal educators and others interested in legal education we have become aware of the fact that the educational values inherent in clinical education still have to be defined. We mean defined beyond the general appreciation of a real life experience during a law school education, and of the social benefits from the spillover effect in the administration of justice by way of additional manpower and new insights provided by law students.

No doubt the fuller delineation of the educational values in clinical legal education will take some time. It will come from the experience of those who are operating the initial experiments in the field. However, it is already possible at this point to describe some of the educational values which inhere in clinical legal education. We believe the values are unique to clinical experience. In this and in a later Newsletter we shall analyze these values from different points of view.

Law school can provide the opportunity for future lawyers to deal with lawyer-client matters in a real live context, learning the best way - before the forces of the everyday world have a chance to depress standards of performance. We are not forgetting that a fortunate but relatively small number of lawyers will have the opportunity to learn the best ways in a government office or larger law firm during an internship period in which they will be tutored by their seniors. But for most young practitioners there will be no such opportunity.

A further word about the matter of learning how to do a professional job well. Because those who become lawyers have differing abilities, motivations, and life circumstances, the same kind of service cannot be expected of every lawyer. But there is too much variation in the standards of service afforded by different segments of the American bar. The absence of a good tutorial experience in a larger law firm or in a public agency for most law school graduates, and the absence of this kind of experience in law school, is directly related to a lower standard of performance by so many who have to start practicing faced with the immediate necessity of meeting a payroll so to speak. Clinical legal education can improve the performance of the American bar and the delivery of legal services by helping to eliminate some of the existing disparities in standards of service.

The first of the educational values, therefore, in clinical legal education which needs to be

exploited is the teaching of standards for the performance of the basic skills involved in service to a client and a cause by a lawyer. By this we mean such skills as interviewing, collecting facts, counselling, writing certain basic documents including pleadings, preparing for trial, and conducting trial matters, as well as following up after the conclusion of a trial. For years legal educators have eschewed the task of working these areas. The most commonly given reason has been that the law graduate will learn these skills best when he enters on his practice. The result has been to leave most law graduates to their own devices for they will have no postgraduate tutorial experience as an intern. Even those who will be tutored as interns after law school should gain from what they can learn in law school, for even in the best of settings and with the best of tutors there are certain commercial or institutional forces which restrict the young lawyer's efforts to the purposes of his employer and client as quickly as possible. In no institution outside the law school is there as much tolerance for abstract perfectionism and repeated efforts at refinement.

The law schools are no strangers to the teaching of some very practical techniques. What the law schools have done is to refuse to teach those techniques which are most directly related to the life of the lawyer in practice. The law schools have chosen to teach so-called scholarly skills and standards. We refer to the favored position of the law review and related research experiences in law school. In these experiences the law schools have eagerly embraced the opportunity to give some students an excellent training in research and writing of the kind that will lead them along the road to the scholarship which finds favor in the eyes of the teaching fraternity. Although such research and writing does have a carryover value for writing in the practice of the law it enjoys a high prestige in law school primarily because it is the kind of research and writing which may qualify a student to become a law teacher and legal scholar. That this is so is evidenced by the fact that so many of the law teachers are chosen from law review students. This favored status continues for those who go on to fortify the law review experience with a clerkship to a high-ranking judge, where again the skills in research and writing are emphasized.

The point is that the law school, removed from the pressures of the business world, can provide excellent training in basic lawyer-client skills. Clinical legal experience provides a vehicle for doing so in the law school. Clinical legal education provides a way in which a law student may be challenged by the facts of life and asked to respond with legal thinking in a live situation, in contrast to the presentation of a legal problem in printed words on a page.

In the live setting the law student will have to respond in a way that is fundamentally different from the response he is asked to give to a written problem. In the live situation the facts do not come in the relatively orderly sequence which is provided by writing. In real life the facts come quite often in a chaotic way. Indeed, the facts will not come without hard work at eliciting the facts. Quite often the source of facts turns out to be an abrasive or even abusive human personality. Yet this person is typical of many personalities who will be requiring legal services from the practicing lawyer. Instead of the comfortable and convenient printed page, the law student will be confronted with someone who may seem to be more of an antagonist than a person asking for his assistance. Still this is how people behave in periods of stress and strain when legal services are required. It is important that the law student be rubbed by a repetition of such experiences to find out how to

maintain his capacity to think and to be useful as a lawyer under such circumstances.

The second educational value offered by clinical legal education is the opportunity for a law student to learn about the management of his emotional commitments to a client and his cause. A student in law school when working on a written problem may break off in the middle, and even abandon a problem in favor of starting on something else. He may or may not come back and pick it up again. He has much flexibility and latitude in dealing with an ivory-towerish, fictional situation, consisting of abstract personalities often with amusing names thought up by a professor, who himself needs some levity to relieve the tedium of writing legal problems for students.

In a theoretical problem of this kind the student's emotional involvement as a lawyer is impossible. He only becomes committed as a student, competing with his professors and his fellow students for marks in mental agility unrelated to service to a human being. The student does not have the real life experience of finding out how far he can go in involving himself with a client and his cause; how far he is apt to go because of his own temperament; and when he needs to temper his involvement and commitment so that he is able to perform a better job for the individual and for others who may need his services.

In the law school, removed from the necessity to earn a fee, the law student has his best and possibly his only opportunity to learn about managing a proper commitment to a client and his cause. The student can learn what a high order of commitment should be. He also should be able to learn when a commitment becomes distorted in a professional service setting, when it may become destructive and counter-productive both for the lawyer and his client. There is a delicate sensibility about involvement and restraint which continues to be developed through extended life experience, but the law school can provide the best start at training these faculties. It should be the place first to become aware of these nuances in the rendering of professional services. Every experienced practitioner will recognize tensions created in attempting to strike the proper balance in each lawyer-client relationship, and between one client and another.

It is necessary for the student to have an exposure to a series of clients. There are values to be derived from a thorough and uninterrupted piece of work on the problems of one client. Yet an exclusive concentration on a single problem and a single client can lead to an unreal experience, though it is a better and fuller experience than the abstract case presented in writing. A single case does not give the student the challenge of placing his commitment and his work on one case and one client in juxtaposition and possibly in conflict with the demands of other cases and clients. Only in this larger experience does the student begin to have a feeling about balancing his undertakings properly, and of living more easily with his emotional as well as his intellectual proclivities. Only in this larger exposure can he learn to give each client and his case a high order of involvement without becoming counter-productive in terms of delivery of good legal services to more than one client.

A third educational value in clinical legal education is that it can develop in the future lawyer a sensitivity to malfunctioning and injustice in the machinery of justice and the other arrangements of society, as they are reflected in the individual case. It is the lawyer's

work on the individual case and with his individual clients that constitutes the essence of his professional job. It is in this environment, therefore, that he needs to learn to recognize what is wrong with the society around him - particularly what is wrong with the machinery of justice in which he is participating and for which he has a special responsibility. This is a special social aspect of clinical legal education, apart from the delivery of legal services by the law student.

Some legal educators have argued that a law student can learn more, or at least as much, about social problems by an adequate exposure to certain kinds of research including field and empirical research. There is no doubt that this is so. This is also so for students in any social science discipline - or indeed in any discipline. For a good research experience per se can yield extraordinary insights into social problems. However, the future lawyers are not going through law school to learn how to conduct social science research projects on social problems. They are going through law school to learn how to serve persons who need legal services. This is still the primary function of the law school. Consequently it is important for the person training to become a lawyer to develop an instinct which leads him to perceive, from the specific facts of a case involving a client, a general social problem. For this is the form in which he will be exposed as a lawyer to the social problem, and not by way of the opportunity to make a special study of the problem apart from the handling of individual clients and cases. Of course law students should have the benefit of participating in good social science research - but not in lieu of a clinical experience with clients and cases.

The law student in the clinical legal experience also should learn the distinction between 1) that which the lawyer has a special power for accomplishing as a lawyer, and, 2) that which the lawyer has to accomplish as a citizen using all the powers at his command. In the first category there are those things which the lawyer can do to influence reform directly by virtue of his work as a lawyer. These involve work on the substance, the doctrine, and the procedure of the law in the course of providing legal service. They include special efforts to improve the machinery of justice in those instances where the organized bar and its closely related institutions undertake reform. In the second category there are those reform activities, including the machinery of justice but also extending into the economy and social institutions, where the lawyer is effective as a citizen with standing because he has achieved in his own profession.

Clinical legal education should help to make the future lawyer sensitive to the broad issues going beyond the immediate case. It should give him practice in how to act as a lawyer in making constructive change in justice in the course of his professional work. It should make him aware that he has another role as an active and responsible citizen of the community at large. The first is professional. The second is political. The two roles are complementary. They are not identical or interchangeable.

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Vol. II, No. 2, November, 1969

Note to Readers: This CLEPR Newsletter consists of two parts. Part I is a report on the first CLEPR Workshop on clinical legal education. Part II is a statement by Chief Justice Warren E. Burger entitled The Future of Legal Education. The remarks were made by the Chief Justice at the Prayer Breakfast of the American Bar Association Convention in Dallas, Texas on August 10, 1969. The statement of Chief Justice Burger is concerned with matters central to CLEPR's program and is of direct interest to legal educators.

PART I

The first of a series of CLEPR workshops on clinical legal education was held at CLEPR headquarters, October 6 and 7. Participants in the two-day conference were James Bailey of Boston University, John Ferren of Harvard, Joseph Harbaugh of the University of Connecticut, Robert Oliphant of the University of Minnesota, Robert Spangenberg of Action for Boston Community Development (ABCD) and Harry Subin of New York University.

Representing CLEPR were William Pincus, President, and Peter Swords, Program Officer. Lester Brickman, CLEPR Research Fellow, chaired the meetings.

The CLEPR workshops seek to provide a forum wherein current thought and practice related to clinical legal education can be presented, analyzed and possibly developed into general theories for consideration by legal educators.

Among the main subjects of discussion were goals, a model for clinical legal education, the problems of supervision, quality representation, course credit, the role of clinical legal education in the legal process, and changing faculty attitudes. A fuller account of these subjects follows, the text being an attempt to present the viewpoints of participants and not CLEPR viewpoints on substance or priority.

GOALS OF CLINICAL EDUCATION

Participants generally agreed that the aim of clinical legal education is to provide a field setting where the student is exposed as a lawyer to the administration of justice, and a related classroom setting where the student will learn how to develop the broader insights and concerns to be gained from the extra-classroom experience. The knowledge and experience gained in these two settings will direct the student toward inequities in

the legal system and will suggest to him that service is an institutional goal of the profession.

In the field setting most participants felt that a one-to-one lawyer-client relationship is essential to the realization of this goal, although some felt that representation of groups, empirical field research and/or sitting in on courtroom cases can achieve similar ends.

In training students in the techniques they will use as lawyers, participants divided over whether a real or a classroom situation provides the best training ground. One said he preferred the latter because he can interrupt a simulated situation to make comments and corrections. Two others supported the use of real situations, one noting that he can and does interrupt in court. Also suggested was bringing audio-visual prototype cases into class, preferably cases actually involving class members. According to its supporters, this method enables the best examples of various types of cases to be studied at length without the pressures of an actual situation. Meanwhile, the presence of students who took part in the case lends immediacy and involvement.

While teaching techniques, however, clinical legal education should not let students get caught up exclusively in the details of the practitioner's work. The classroom component of the clinical programs should also teach students how to spot legal issues and develop creative approaches to handling cases. Participants agreed generally that much creative work is possible with seemingly routine cases, and even the routine case can serve to move the student toward the perception of a general problem. Thus, the question was raised whether any case could really be called routine from the educational viewpoint.

A MODEL FOR CLINICAL LEGAL EDUCATION

After much discussion a model for clinical legal education was formulated consisting of a preparatory orientation phase followed by concurrent programs of field work and reflective seminars. The preparatory phase would consist of a sort of casebook approach utilizing audio-visual prototypes derived from prior clinical work and simulated classroom situations to train students in interviewing, counseling, investigatory and trial techniques and to develop an awareness of what to look for in real situations. This orientation would stress the identification of legal issues so that students could spot such issues when working with live clients.

Field work would consist of experiences with real clients in a variety of possible settings. Students might work in a neighborhood legal clinic affiliated with, or even located in, the law school, or they might have their experience in the office of the public defender or public prosecutor, legal aid bureau, an OEO office, etc. The question of supervision was raised here and brought forth expressions of deep concern from all participants. (See next section.) The range of experiences available to students through field work would depend in part, of course, on whether the state has a student practice rule.

Frequent student-teacher conferences should be held during the field work period to discuss day-to-day problems presented by the case the student is handling. In addition, seminars held on a weekly basis make an invaluable contribution to the clinical experience. Here students would consider not only specifics but also the broader implications of their experiences. They would learn to ask questions as to the meaning of the rule of law and the judicial system. They would learn to think critically about the service responsibilities of the profession and the potentialities and limits of using legal tools to effect social change. Here, too, the professor would provide detached reflection and comment on how the field work situations were handled thus exposing the class to a wide spectrum of cases.

The professor would do well to select those cases from the clinic with the most educational value and the greatest implications for law reform for presentation in class. In this way, the materials would be kept current and interesting. Also, these materials might be considered for inclusion in a written casebook to be used in the same manner.

PROBLEMS INHERENT IN CLINICAL LEGAL EDUCATION - - - SUPERVISION

Supervision was felt by all participants to be the key element of the clinical program. All agreed that supervision is required from a "service" point of view to insure that students render competent legal services to clients; and from the education point of view, only through supervision can a student properly ingest his clinical experience. Workshop participants concurred that adequate and competent supervision is the most important element in transforming experience into education.

Several participants observed that the problem of supervision is most acute in schools with a multiplicity of clinical programs, such as Harvard, and at schools where enrollment in clinical programs is substantial, such as Minnesota. Effective measures have been taken to manage the workload by standardizing practices. Thus, at the University of Minnesota, students prepare a memorandum on each case they handle which is submitted to an elected student director for preliminary review and then to the program director. Once a week individual conferences are held with students to discuss the memoranda and the progress of each case.

At the University of Connecticut, where the enrollment in clinical programs is considerably smaller, supervision is in pyramidal form. The Director, an Assistant Professor, is in overall charge of the program and conducts a weekly seminar. Three lawyer-interns, all recent graduates with lecturer-in-law status on the faculty, supervise the fieldwork on a day-to-day basis and hold frequent conferences with the students. The Director feels that in this way good and sufficient supervision is provided for the 30 students enrolled for credit in his clinic course. About 50 students participate in a non-credit volunteer public defender program for which supervision is provided by these same interns.

At Boston University, 30 students are supervised by the program director and his assistant at every juncture of client contact. Also, the judges are very cooperative in

critiquing each student's work when the case is over.

All participants agreed that simply "farming out" students offers completely inadequate supervision, but sometimes there is no alternative. In addition, such programs often stifle initiative with their tight procedures, necessitated by the huge volume of business they handle. In these situations, students are just expected to handle cases automatically, never going into why they are using certain procedures. There simply isn't time to think creatively, to consider alternative ways of handling cases, or to consider implications for law reform. The educational value of such outside programs was severely questioned.

It was suggested that the leader of the classroom component should not be directly involved in handling and supervising cases in the field work component of the program. Responsibility for line decisions makes it difficult to focus on the broader perspectives. It would be useful however for the attorneys supervising in the field to attend these classroom sessions. The classroom teacher would ideally be someone familiar with the clinic but not involved in its day-to-day operation.

THE PROBLEM OF QUALITY REPRESENTATION

Alongside the problem of providing adequate supervision is the problem of giving quality representation to the clients. Some participants felt that inadequate supervision results in inadequate provision of legal services to clients.

On the other hand, the alternative of limiting the number of cases taken proves to be a hard decision. One program director pointed out that his students became outraged when told that they would have to turn away clients; they perceive their programs as providers of service to the community and the law as an instrument which should be equally available to all.

Another said that he started out with the conviction that serving all possible clients was his program's first obligation. However, he found that not only were clients receiving less than quality representation but also his lawyers were so busy with walk-ins that they didn't have time to take a single appeal in an entire year. Thus he capitulated to the necessity of turning down cases.

The question was raised as to how a program turns down cases when it operates in the form of a neighborhood law office. Won't the community perceive that the law school is using people as guinea pigs for educational purposes, and won't the community resent the program's failure to deliver the services which the presence of a neighborhood clinic implies? At the same time, if the poor are to get the same representation as the rich, some limitation must be imposed on caseload.

The neighborhood clinic seems to create the most difficult situation for turning away clients. For this reason, one participant said that he would not open a neighborhood clinic at his school. Rather, he selects cases from the local municipal court calendar on the basis of their educational value. However, another said that the experiences

which students derive from working in a neighborhood clinic are unparalleled and are vastly richer in content and variation than other clinical vehicles.

Support for the representation of groups as a higher priority than the representation of individuals was voiced. Persons with a common problem, such as a tenant group, can obtain better service than they could if each person applied for it as an individual, demanding personal attention. Obviously, the latter procedure spreads the resources of a clinic terribly thin. For students group representation exhibits how a common injustice affects many members of society.

A somewhat different point of view was also expressed: Even though the taking of individual cases strains the clinic's manpower resources, the benefits to both students and society are unique. For the student, operating on a one-to-one basis with an individual client fulfills his primary function as a lawyer, and only in this way can he become sensitive to an individual and his problems and learn how to respond. Here, too the student gains experience in recognizing the general problem in the specific problem - a valuable educational exercise. For society, the effort to secure justice for an individual is essential if it is to continue to be a society worth living in.

The final consensus was that, ideally, professors should be able to limit the number of cases they handle and perhaps even to select the cases which have the most educational value. This is done at New York University, but it has the limitation of shielding students from the repetitiveness and ordinary nature of most legal practice that they need to learn. This was generally agreed. For if they do not, will they develop a feeling for the service element inherent in their profession?

THE PROBLEM OF ACADEMIC CREDIT

The question of whether or not to give students academic credit for clinical work - and how much credit to give - raised both practical and philosophical considerations. Two participants said they felt their faculties did not assign enough credit to clinical courses. Consequently, students must take on nearly a full academic load while devoting many hours a week to clinic work. Their burden could be considerably eased by giving more credit for clinical courses, generally in the form of seminars as, for example, at Boston University, which awards 3 credits for a year long seminar taught in conjunction with the clinical program.

While clinic work at Harvard carries no credit it was indicated that participation connotes the same type of prestige as does law review. Paradoxically, some of the students are opposed to receiving credit for this work while faculty sentiment is moving toward the granting of credit. These students feel that as professionals they will have to make time for public service and therefore they ought to do the same while in school. In addition, these students voiced their concern that if credit is given, uncommitted students, interested more in the credit than in professional responsibility, might join their ranks; also, community residents might not believe in the students' concern for their condition if these students were receiving credit for their work. It was recognized that this attitude

may be an unconscious aggrandizement of "noblesse oblige": Should clinical experience and service to the community be limited only to the so-called committed? Here note should be taken of the fact that a few schools are requiring clinical experience for all students before graduation.

THE ROLE OF CLINICAL LEGAL EDUCATION IN THE LEGAL PROCESS

Although CLEPR's role is to advance clinical legal education in schools throughout the country and is not directly concerned with reforming the legal system, discussion turned many times to whether or not, and how, clinical legal education works toward law reform.

One Workshop participant said he felt that law schools should be, but were not, viable instruments for reform in the urban community. Schools, he said, should be making financial commitments and public statements in support of law reform, but instead they are inclined to maintain a non-involved posture, being satisfied with the traditional law school posture of the neutrality of education.

Other participants, however, felt that, without a public announcement from the law school, their clinical program is making progress toward reform in their local courts and prisons. One program director specifically is trying to improve the municipal court where he runs a misdemeanor program. Thus far, the program has arranged for a doctor to examine prisoners, has successfully challenged recognizance and bond procedures, vagrancy and begging ordinances, and has effected changes in the treatment of chronic alcoholics.

CHANGING FACULTY ATTITUDES TOWARD CLINICAL LEGAL EDUCATION

More and more, it was pointed out, law school faculties are coming to see that clinical legal education, especially where properly supervised and combined with classroom components, has significant educational value and is not just an outside stimulus to student interest in the law.

Law school faculty members were urged to become personally involved with clinical work in order to see the value and to experience the impact of these programs. The schools can facilitate such participation by granting lightened teaching loads to faculty members who wish to become involved. Meanwhile, clinical professors and interns must prove the worth of their programs by doing an outstanding job and winning the respect of the rest of the faculty for what they are accomplishing.

In this way, clinical legal education programs may come to have the kind of personal and financial support they need to be maximally beneficial to the student, to the profession, and, eventually, to society.

THE FUTURE OF LEGAL EDUCATION
Transcript of Remarks of Warren E. Burger,
Chief Justice of the United States

The American Bar Association has of course long maintained an acute interest in the standards of legal education. Through its programs for continuing legal education of practicing lawyers and its evaluation and accrediting of law schools it has rendered great public service.

The Law Schools of this country on their part have superbly trained students in legal principles and legal analysis but the question is whether that is enough. In my view it is not enough. In the turmoil and stress of our times a great many established concepts are being challenged. Legal services were once thought to be largely for those who could pay for them, even though one of the great traditions of the profession has always been to represent the indigent and the underdog in criminal cases. The civil legal aid developments have not kept pace.

Now we are seeing that there may be some connection between the aggressive attitudes and hostitlities of some people and the fact that they believe - whether correctly or not - they are being unjustly treated. Often they are indeed victims of injustice and few things rankle in the human breast as does a sense of injustice. In part, at least, feelings of injustice help explain the turmoil in colleges and large cities.

Walt Whitman once wrote these lines, lines which have a special relevance today: "All the noisy tempestuous scenes of politics witnessed in this country - all the excitement and strife, even - are <u>good</u> to behold." It is good to behold but only if it produces a positive reaction. It has been very good, for example, to see the legal profession support the National Defender Project and the Bail Studies because the positive consequence is that we will ultimately have provision for adequate public defender services wherever they are needed. The American Bar Association has played a large role in these developments, overcoming many years of inertia, and even opposition, by the organized bar.

One of the great things about the development of legal aid and defender programs and the post graduate seminars to train lawyers for these new tasks is that they are private and volunteer efforts. The concepts are devised by lawyers, implemented by lawyers and financed by the private sector including lawyers, Bar Associations and great philanthropic institutions.

This is the American way of progress and it is often better and more enduring than ad hoc improvements imposed by the acts of Congress or mandates of courts, though we must sometimes have those too.

All these programs are manifestations of what can fairly be called the Great Partnership of Lawyers, Judges and Law Teachers, for each of these segments of our profession has had a large part of each of these enterprises. That cooperation - that Great Partnership - must never dissolve. It must be strengthened and judges must help strengthen it.

In the company of leaders of the legal profession of America gathered in Dallas it hardly

needs saying that an organized society with ordered liberty must be based on something more than a stern system of criminal justice in which law breakers are swiftly caught and promptly punished, and where homes and streets are safe. It must also be a society in which the ruthless and greedy are restrained from exploiting the weak; a society in which the simple - and sometimes even the foolish - are protected by rules of law from oppression and exploitation by the cunning of others.

If "ordered liberty" means even-handed justice for all, it becomes apparent at once that lawyers are highly important cogs in the machinery of such a society - far more important than in the pioneer days when our rough and ready philosophy was one of "dog eat dog and the devil take the hindmost." Neither that harsh frontier philosophy nor the cynical attitude of "let the buyer beware" is suited to the kind of a society which the restive new generation is seeking. It is not the kind of society any of us want.

Today you lawyers are more important to the functioning of an orderly, organized society, therefore, than the police or the courts who are the coercive instruments. This may seem an extravagant appraisal but I believe it is true because, as lawyers, you can exercise the crucial function of "peace makers" - providing solvents and lubricants which reduce the frictions of our complex society and make it work. But to do this lawyers must be adequately trained not only as technicians but also as specialists with a proper understanding of their true role in a modern society.

The instrument we have chosen in this country to train and educate lawyers to perform this crucial function is, then, a vital part of our total social mechanism. That instrument, of course, is the Law School.

To be sure that my point will emerge clearly from the underbrush of what I say, let me emphasize it: THE MODERN LAW SCHOOL IS NOT FULFILLING ITS BASIC DUTY TO PROVIDE SOCIETY WITH PEOPLE-ORIENTED COUNSELORS AND ADVOCATES TO MEET THE EXPANDING NEEDS OF OUR CHANGING WORLD. To a large extent this failure flows from treating Langdell's case method of study as the ultimate teaching technique.

But even as I challenge the pattern of legal education, I am bound to pay tribute to the Law Schools for teaching superbly those skills of our craft which make today's law graduate a most sophisticated technician in legal analysis and legal principles. As new Law Clerks come into my office each year I marvel at the vast store of knowledge they possess on legal rules and the opinions of appellate courts. Note, however, that I do not use the term "cases"; you will soon see why.

The shortcoming of today's law graduate lies not in a deficient knowledge of law but that he has little, if any, training in dealing with facts or people - the stuff of which cases are really made. It is a rare law graduate, for example, who knows how to ask questions - simple, single questions, one at a time, in order to develop facts in evidence either in interviewing a witness or examining him in a courtroom. And a lawyer who cannot do that cannot perform properly - in or out of court.

The Langdell method should not have been described as the "case" method of study. It should have been called the opinion method or the appellate method.

This is very important because students have long thought they were dealing with cases when they were really dealing with opinions and appeals, and there is an enormous difference. The difference is illustrated in part by the truism, which I accept, that almost any good lawyer can make a passable appellate judge but only a few can make good trial judges. Today's legal teaching tends to over-value rules of law and legal thinking at the expense of inadequate preparation in relation to raw facts and real life problems. In appellate opinions the facts have been determined (even though they are sometimes challenged) but in the trial courts the facts are more often "the whole ball game."

To rely on appellate opinions as the prime teaching tool not only deprives the student of a chance to learn how to deal with facts but, what is more serious, he fails to learn that "cases" are essentially facts.

In retrospect one could hardly conceive a system of legal education farther removed from the realities of life than the pure case method. And that is why so many modifications have been made in recent years. Perhaps we may shed light on the problem by asking whether we could train doctors simply by having them do autopsies for five years in medical school and then finish up with one course on how to examine and question and diagnose a live patient with a pain. Obviously this would not produce very good doctors.

When medical education became more formalized a half century ago, the medical educators quickly realized that the purpose of medical education was to train doctors to heal patients and that this could be done with patients - not just with books and lectures. It is axiomatic that no medical school can function without ready access to a large hospital where students see and work with people afflicted.

Today the education of a doctor is approximately 20-25% books and classrooms and 75-80% clinical or the direct observation of a doctor's treatment of the sick. In this real life process the medical student spends roughly 80% of his time with practicing doctors as his teachers.

Today, in many courtrooms, cases are being inadequately tried by poorly trained lawyers, and people suffer because lawyers are licensed, with very few exceptions, without the slightest inquiry into their capacity to perform the intensely practical functions of a counselor or advocate.

This may well suggest that bar admission standards are at fault and that judges and bar examiners must mend their ways. I agree, but a very large responsibility must rest with the Law School to teach real life problems in real life terms while it has the students as a "captive audience." It is all too easy for Law Schools to say that the problems of practical law practice and of ethics and professional conduct and responsibility are matters of continuing legal education which cannot be treated in the Law School. But the legal profession has no power to compel the attendance of students to seminars or classes

whereas the Law School does have that power. The Law School is uniquely situated to shape and form the habits of the student in the period when his professional ideals and standards of ethics, decorum and conduct are being formed. At that stage he is malleable and receptive. He has learned none of the bad habits of legal thinking, legal application, or dubious ethics, all of which can be observed in far too many courtrooms.

While in Law School the student can be guided in developing not only technical skills - as is now done so well - but also standards of conduct that comport with his broad public and social responsibility, all of which are indispensable to the proper functioning of a system of justice.

Perhaps it would be more accurate to say that there have been three failures - that of the Law Schools, that of the organized bar, and that of the courts which control admission to practice.

Considered in this light, does it not seem to you that the appellate case method of teaching may have really been a form of escapism - a simplistic effort to solve a complex problem in a tidy and comfortable way which avoided the antiseptic odor of the jail house and the problem of the "unmarried mother," of dependent children and the aged and infirm - in short, escapism from the depressing atmosphere which surrounds "the short and simple annals of the poor?"

Most of the graduates of the present system ultimately become excellent lawyers after several years of supervision by seasoned practitioners, or alternatively after several years of the trial-and-error method at the expense of hapless clients. At the outset, however, far too many tend to be filled with solutions in search of problems - solution-trained without being problem-oriented. We have not met the need when we release young graduates well trained to write a fine appellate brief but not trained to recognize usury concealed in an installment sale contract for a television set.

I hasten to add that not all Law Schools have failed to see the need for what might be called "clinical or "practical" exposure of law students to the realities they will face in practice. Those schools which treated Langdell's method as a platform on which to build realized that the appellate case study method is really an "autopsy" process with the record as the lifeless body and the appellate opinion as a post-mortem report. A goodly number - but far too few - have shaken off the dead hand of the past and have begun to work toward what we now call "clinical" methods of teaching, but even the best of these efforts must be broadened.

An increasing number of law professors have become involved in activities outside the Law School and in turn have related their practical experience in their teaching. A growing number have taken part in government and community work and as volunteer counsel for the poor in civil and criminal cases. A few Law Schools - but again too few - have a tradition of involving judges and practicing lawyers in teaching, and that tradition should be encouraged.

We find a growing number of Law Schools involving their third year students in civil legal aid or public defender programs or as "interns" in various government offices. These are among the most encouraging developments in the past 30 years or more, but they represent hardly more than a slice of the available loaf of practical work which could be exploited in legal education.

If I am correct that the shortcomings of legal education result from a joint failure of all three branches of the profession, the remedy is one which calls for collective action. This challenge requires strengthening the partnership of Law Schools, lawyers, and judges, perhaps using the broad outlines of medical education as a guide.

The recent development of teaching law through "clinics" is one of the first new steps taken in legal education since Langdell's "case method." With private Foundation support, many Law Schools have begun to offer courses in various fields of law through the "clinical method," exposing students to the living problems of living clients as part of the learning process. Now Congress, in Title XI of the Higher Education Act of 1965, has authorized appropriations for similar programs in still more schools. When these funds become available, they will effectively supplement the pioneering work in clinical law teaching done by the Council on Legal Education in Professional Responsibility. This is one of the encouraging signs that there is much ferment; it must be encouraged; and at this stage it would be a mistake to try to channel all of the many and varied innovative Law School programs into any kind of mold. The work of the American Association of Law Schools, the American Bar Association, the Office of Equal Opportunity projects, and others, all point in the direction of using a larger part of the law student's time to learn how to deal with facts and people and problems as did our predecessors a century ago.

In the next year I will ask various groups, who are experimenting and probing for better methods to train lawyers, to meet and consider whether the time is not ripe to gather representative law teachers, lawyers and judges for a careful and serious in-depth re-examination of this entire problem. I am confident that such an effort, under the joint leadership of the American Bar Association, the American Association of Law Schools, and others, will help produce an even better kind of lawyer than the men and women now coming out of the Law Schools - lawyers with a new sense of dedication who put duty to the public interest high in their conception of the role of the American legal profession.

NOTICE RE CLEPR GRANTS FOR 1970 PROGRAMS

The CLEPR Board of Directors will meet on December 11 and 12 and make the first grants for 1970 starts on clinical programs at that time. Additional grants for 1970 starts will be made in the first few months of 1970.

It is too late to submit any application for CLEPR aid for a 1970 start, unless the law school has already been in contact with CLEPR and has been advised that an application may be submitted and will receive consideration. This cut-off is not a matter of choice. It is required because applications in hand and on their way (after preliminary discussions between CLEPR and the law school) contain requests for funds which will substantially exceed CLEPR's grant capacity for 1970 starts. In fairness to everyone we, therefore, advise that plans for applications to CLEPR, not yet brought to our attention, should be premised on the use of CLEPR money in September, 1971.

CLEPR will announce deadlines for new applications pursuant to the above as soon as possible.

HARVARD INVITES INQUIRIES RE TEACHING FELLOWS

Currently five Graduate Fellows in Clinical -Legal Education are in residence at Harvard Law School pursuing an LL.M. degree and conducting various projects with students in conjunction with either the Community Legal Assistance Office or the Workshop in Urban Problems. Law School deans interested in the Fellows for teaching positions can get in touch with them through John Ferren, who directs the program. The address is Harvard Law School, Cambridge, Massachusetts 02138; the telephone number is (617) 868-7600, Extension 4479.

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Vol. II, No. 3, November, 1969

Introductory Note

In our last Newsletter we published Chief Justice Burger's remarks on The Future of Legal Education. The Chief Justice's statement contained references to the experience in medical schools with clinical education, and is an example of how the experience in medicine increasingly has drawn the attention of legal educators and others interested in the potential of clinical legal education.

We reprint herein a paper prepared for the conference on Law Students in Court held at the University of Chicago, under a CLEPR grant, on October 31 and November 1. A small part of the text at the beginning of the paper has been omitted because of space limitations imposed by the format of our Newsletter. The complete text of this paper as well as the others prepared for the Conference will be published in the near future in a single volume.

CLINICAL TEACHING IN MEDICINE: ITS RELEVANCE FOR LEGAL EDUCATION

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HISTORICAL BACKGROUND

For those involved in medical education, either in administrative capacities and/or as faculty members, the importance of clinical education in the overall experience is taken for granted. In mathematical terms, it is a given. Indeed, for the past sixty years, the inclusion of a meaningful clinical experience has been a hallmark of medical education in this country. To a large extent, this fact reflects the profound influence of one man on the field, and interestingly enough, that man, Abraham Flexner, was not a physician nor even a scientist.

In 1908 the Trustees of the Carnegie Foundation authorized a detailed study of medical education in the United States and asked Mr. Abraham Flexner, an educator, to direct the study. In a period of less than two years, Flexner visited every one of the schools then still operating, and in 1910 published his findings in a monograph known as Bulletin No. 4, probably the single most important publication in the field of medical education. It should also be noted that the work is considered to be a classic in the whole field of education. In these days of multitudinous, voluminous and often verbose task force and commission reports, one can't help but be impressed with Flexner's work as a masterful example of

clarity and brevity.

In the introduction he prepared to Flexner's report, Henry S. Pritchett, President of the Carnegie Foundation, summarized succinctly the key findings. For purposes of background they are here reproduced:

1. For twenty-five years past there has been an enormous over-production of uneducated and ill trained medical practitioners. This has been in absolute disregard of the public welfare and without any serious thought of the interests of the public. Taking the United States as a whole, physicians are four or five times as numerous in proportion to population as in older countries like Germany.

2. Over-production of ill trained men is due in the main to the existence of a very large number of commercial schools, sustained in many cases by advertising methods through which a mass of unprepared youth is drawn out of industrial occupations into the study of medicine.

3. Until recently the conduct of a medical school was a profitable business, for the methods of instruction were mainly didactic. As the need for laboratories has become more keenly felt, the expenses of an efficient medical school have been greatly increased. The inadequacy of many of these schools may be judged from the fact that nearly half of all our medical schools have incomes below $10,000, and these incomes determine the quality of instruction that they can and do offer.

Colleges and universities have in large measure failed in the past twenty-five years to appreciate the great advance in medical education and the increased cost of teaching it along modern lines. Many universities desirous of apparent educational completeness have annexed medical schools without making themselves responsible either for the standards of the professional schools or for their support.

4. The existence of many of these unnecessary and inadequate medical schools has been defended by the argument that a poor medical school is justified in the interest of the poor boy. It is clear that the poor boy has no right to go into any profession for which he is not willing to obtain adequate preparation; but the facts set forth in this report make it evident that this argument is insincere, and that the excuse which has hitherto been put forward in the name of the poor boy is in reality an argument in behalf of the poor medical school.

5. A hospital under complete educational control is as necessary to a medical school as is a laboratory of chemistry or pathology. High grade teaching within a hospital introduces a most wholesome and beneficial influence into its routine. Trustees of hospitals, public and private, should therefore go to the limit of their authority in opening hospital wards to teaching, provided only that the universities secure sufficient funds on their side to employ as teachers men who are devoted to clinical science.

The foregoing summary details the defects which existed in medical education in 1910. For purposes of this paper, special attention is directed to the fifth recommendation, namely,

that clinical teaching receive appropriate emphasis. In the text, Flexner discussed at length the importance of medical students having a significant clinical experience, based on their being directly involved in caring for patients in both the out-patient clinic and the hospital wards. He recognized the need for the medical school to control educational policies in the hospital that was to be used for teaching. Indeed, his definition of the criteria for a teaching hospital can easily be applied today. And, of course, Flexner could and did point to the Johns Hopkins Medical School and Hospital as models to be emulated.

The Flexner Report had remarkably profound effects for good. In a short space of years, the diploma mills went out of business, and the upgrading of other schools went forward apace. In almost every instance, the establishment of a meaningful rather than a nominal relationship with a university was a major aspect of the upgrading process as was the strengthening of both the basic science and clinical facets of the educational program. In every school, clinical clerkships were assigned a key place in the revised curricula, and internship and residency training was expanded.

In clerkships, as in internship and residency programs, students fulfill a significant role. Though they work under supervision and their responsibility is circumscribed, as their skills develop they are given more leeway in what they do.

A brief definition of clinical clerkships is here in order. They characteristically involve both in-patient and out-patient experience, usually in that order although some years ago the order was more commonly reversed. While in a clerkship, the student is usually assigned full-time to a particular clinical service, working as a member of a team that includes several students, an intern or two, a resident and an attending physician. The students are assigned new patients in rotation, and are responsible not only for a complete written history and physical examination on their patients but as well for following their courses on a continuing basis. Often students are expected to do certain laboratory procedures such as blood counts and analyses of urine. To the patient, the student is usually identified as such but he is addressed as "doctor", and his role is accorded respect by his confreres on the "team". He is responsible for presenting the patient's case to the senior attending physician, is expected to have reviewed the pertinent literature - both in textbooks and journals - and he plays an active role in planning the patient's care.

Clerkships extend over a period of weeks, from four to twelve. Conventionally, they are served in medicine, surgery, pediatrics, obstetrics and gynecology, and psychiatry. Short clerkships in medical and surgical specialities, such as urology, otology, etc., have become less common because of the limitations inherent in a learning experience of such a short duration.

Out-patient clerkships, of course, involve ambulatory patients; here a larger percentage of the patients have minor or at least less immediately threatening illness, and psychosomatic ailments are more numerous. The experience is thus complementary to that acquired in in-patient work. In the out-patient department, the student usually works under a faculty preceptor, rather than as a part of a large team. If consultations are needed from those in other fields, the patient is referred to appropriate clinics but the student is usually

responsible for following the patient and continues to serve in large measure as the primary doctor.

The major out-patient clerkship is that in internal medicine with pediatrics and psychiatry also being assigned a significant period of time. In some schools, psychiatry provides much of its undergraduate instruction by assigning consultants to the medical clinic where they are immediately available to the student when their professional skills are needed.

It is impressive to note that in the almost sixty years that have passed since the Flexner Report appeared, clinical clerkships on the one hand and internships and residencies on the other have steadily strengthened. The key to all of these programs is the proper blend of responsibility and supervision. If adequate and appropriate amounts of either were lacking, the student's educational needs would not be well served; with the proper mix they are, and the patient's best interests are safeguarded. It follows that both responsibility and supervision must vary, depending on the stage of the student's or young physician's education. That the educational aspects, as contrasted to pure technical training, are highly significant is attested to by the fact that a high percentage of all internship and residency programs are now conducted in teaching hospitals rather than in institutions where teaching is not a major objective of the medical staff.

Until recently, most student clerkships were offered on the indigent wards of our teaching hospitals. Because the patients were by and large unable to pay for care and were thus a "captive audience", it was perhaps easier to integrate students into the medical care system than might have been the case with more affluent patients. Yet in recent years, as more and more patients have acquired health insurance by one or another route, student clerkships have been carried on without difficulty in hospital units where patients are not receiving free care. For example, both in the University of Chicago and Stanford University Hospitals (and increasingly in other teaching hospitals as well), essentially all patients are private - that is, they and their insurance carriers or the government pay the full cost of the hospital care, as well as physicians' fees, and yet the quality of the educational programs has not suffered. In other words, even though the establishment of clinical clerkships and of internships and residencies was almost certainly facilitated initially because the patients were indigent, it is clear that it is by no means essential that teaching be limited to patients from a lower socio-economic stratum. In fact, students are benefitted by being exposed to patients from a broader spectrum of society.

The development of stimulating clinical educational programs inevitably requires more faculty members; this fact plus the exponential increase in knowledge due to the boom in biomedical research, led to the rapid increase of full-time appointments. Many full-time clinicians, however, devote from 25% to 50% of their time to their investigative efforts. For this reason, their teaching activity is only part of their total role. On many teaching services, volunteer faculty members, who derive their income from private practice, contribute their services to medical schools without recompense save for the intellectual stimulation and the prestige attendant to a faculty appointment. But even with a devoted volunteer faculty contingent, emphasis must be placed on the requirement of a significantly larger full-time faculty component if a school is to carry on effective clinical clerkships as well

as the more advanced internship and residency programs.

The substitution of what may be described as a "practical" approach for a didactic one means that in place of a single teacher lecturing to a class of 75 to 150 students, a faculty-student ratio of the order of one to four or even one to two is required. Only when the situation permits meaningful exchange between teacher and student at the bedside can clinical teaching be a really worthwhile experience. The Socratic approach has been widely used in medical teaching, and at least in the better schools, students are encouraged to question dogmatic statements made by a teacher rather than to accept them passively. Discussions are carried on at length, and may cover a number of broad, related areas.

The quality of care of patients in a teaching hospital is enhanced by virtue of the participation of bright young students and house officers who bring a critical and often extremely well-informed point to the deliberations. Tempered by the experience of a more senior teacher-clinician, the contributions of the young physicians are significant.

It must be emphasized, however, that the efficiency of the whole process is inevitably lessened - at least in terms of the time required per patient. It is obvious that detailed discussion, as noted above, requires time. Although the ultimate care of the patient is often better as a result, in many instances it is probably true that a senior, able clinician could have accomplished much the same end insofar as the patient's care is concerned in a shorter time. By the same token, the patient is subjected to multiple examinations rather than to a single one, but if these are carried out considerately and with appropriate attention to the amenities, patients rarely complain. Indeed, many enjoy their contact with the "young doctors". Students are usually highly interested, have more time to spend with patients, and their attention is often enjoyed by the latter.

In medicine, we are just beginning to examine critically our clinical teaching methods with a view toward evaluating new techniques that may represent an improvement in the whole clinical teaching process. First, medical students for years have looked forward to their contact with patients, and even in these times, marked by outspoken dissatisfaction with many aspects of the educational process and content, the clinical clerkship still maintains its popularity. But increasingly, students express an interest in beginning their clinical experience earlier than late in the second year which has been the conventional schedule. On the basis of limited trials, it appears as if this kind of change is not only feasible but may well constitute a positive stimulus for medical students, particularly as they question the relevance of the emphasis on basic science courses in the first year and a half or two years. That emphasis may be excessive as more and more students enter medical school with a far more sophisticated background in science.

We are also beginning to explore the use of teaching machines and programmed learning as adjuncts to the educational process. The use of such techniques may well improve the overall process and provide each student with the opportunity to proceed at a pace better suited to his own needs.

The use of clerkships and similar kinds of approaches, advantageous though they certainly

are in medicine, have increased the cost of medical education. If law schools were to embark on a similar effort, one can predict that added budgets would have to be provided. Of course, much could be said for initiating such a program on an experimental basis and there are two points that are probably pertinent in this connection; first, such a program would undoubtedly be started on a limited scale so the added cost should be relatively modest; and second, support for innovation often is available from foundations interested in education. The grant mechanism has been widely and successfully used by medical schools over the years to initiate new programs.

Despite all of the positives that have been noted in respect to the clerkship and its continuing popularity, many of today's medical students are critical of certain aspects of their clinical clerkships, and especially of the in-patient experience. These criticisms may be summarized as follows:

1. Medical faculties have become more and more involved with research as a result of greatly increased federal support in this area, and the criteria for appointment and promotion have emphasized research, and especially laboratory research. There has inevitably been a lessened emphasis on clinical skills, at least in broad terms. In part the growth in the body of knowledge has made it difficult for many faculty members to be expert in their own special field and well grounded in others as well. But to students, the lack of clinical experience and particularly the lack of broad clinical interest in their teachers is a source of obvious dissatisfaction. They tire of highly detailed discussions about minute, and to them obscure, points and yearn for more "practical" emphasis.

2. Students are often critical of the fact that they tend to see relatively uncommon and complex disease problems and much less of the more common ailments. As the university hospitals have progressively become referral centers for patients with exotic and poorly understood diseases to the exclusion of patients with more common and less perplexing ailments, students have become disenchanted with the skewed sample of the clinical problems they face.

3. Today's medical students are also more concerned with the socio-economic aspects of medicine, and with the major unmet health care needs of the ghetto and poverty-stricken rural regions than were their predecessors even a few years ago. Their motivation to do something in these areas can only be admired, and as a result medical schools are now focusing much more on community medical needs than they have in the past. Neighborhood health centers, clinics for migrant workers, and medical service in developing countries all attract the attention of many students. It is essential, in our view, that the conventional hospital clinical experience be complemented, at least on an elective basis, by programs that will provide students with a meaningful opportunity in the field of community health care. Such programs are being established now by a number of schools.

4. An unfortunate by-product of the social concerns of medical students is their tendency to downgrade the scientific basis of medicine. Some of the brightest students in some of our best schools, in their zeal to attack and see attacked the health care needs of the poor, fail to exhibit the intellectual discipline that is a sine qua non for the competent doctor in

these times.

Medical education has come a long way from the low state that characterized it in 1900. It should be clear that the clinical experience that is a key feature of the medical curriculum has stood the test of time, albeit there are new problems that need to be faced. With this background, we now turn our attention to some questions that more directly bear on the issue of introducing into the legal curriculum a program analogous to the clinical clerkships in medicine.

We can inevitably expect problems when an attempt is made to apply lessons learned in medical education to legal education. Medical educators know little about the law and about the legal curriculum. Nonetheless, there may be some value in examining certain questions that bear on the possible introduction into legal education of a program comparable to the clinical clerkships in medicine.

One might begin by asking, why are law schools and medical schools so different? An initial observation on this question is that they have at least one major similarity. Both educate their matriculants to master a body of knowledge that is applicable to the solution or at least the management of human problems. In each instance, they bring their skills to bear when requested to do so by an individual for whom the problem has become significant. In short, the lawyer and doctor are both asked to assume a degree of responsibility for some aspect of an individual's life that is often very personal and important. In order to know how best to carry out such responsibility, not only in terms of how one gains and applies the requisite knowledge but also how one relates warmly and understandingly to the individuals concerned, some kind of "practical" experience is invaluable.

There are, of course, many real differences between what lawyers and doctors must face and do, and therefore between the educational experiences each requires. In the law, many substantive events are discrete and have occurred in the past; one deals with their aftermaths and often considers them rather entirely in retrospect. Much of medicine is "now", and it is often not possible to go back and reassess the situation. A "continuance" may not be possible; a decision, often of major proportion, may have to be made on a very short time scale, one that does not provide for long periods of study and contemplation, although this kind of approach is possible in less acute medical situations. But to a large extent, particularly when they are working in the hospital, medical students must learn to make their peace with this unnerving characteristic of medicine. Another difficulty for the medical student and physician is the speed with which the most basic belief may change. Understanding of a major physiologic mechanism of the body, or a long relied-upon treatment of a disease, may have to undergo drastic alteration over a matter of a few weeks. Views of basic processes seem to change only very slowly in the law, probably no faster than the mind of man changes on most societal questions. But in medicine, basic views of a process tend to change rapidly, particularly because the volume of research is large and new information comes forth at what is almost a frightening rate.

In discussions with students and faculties of medical schools, one is cognizant of a high

degree of idealism in their words and deeds. It is also possible to discern that they possess a somewhat righteous sense of their own idealism vis-a-vis other disciplines. It is as though they were saying that health and lives, and the people who deal therewith, are more important than dollars and those concerned with them. This, of course, is the least fair basis of comparison between law and medical schools; civil rights matters, for example come pretty close to the most righteous concerns which medical persons may have. Nevertheless medical institutions have managed to communicate to the public the preeminence of their particular activities, and have won public attention and funds to an astonishing degree. Law schools may well regret this differential in attention and support, with all this implies in terms of unrealized exploration and development of research, education and practice in the various fields of the law. Neither will the law schools take much comfort from the wry recognition that what is being reflected are only the priorities of the basic motivating fears which most men have.

The rather easy internationality of medicine certainly stands in some contrast to the particularization of the law from country to country. Of course comparative law is a major topic, and one to which law students can be to some extent introduced. But medical students have a much easier time of it in this regard. Every year a number of Stanford medical students spend several months in certain Central and South American countries, or in some of the new African states, participating actively in medical care, especially in relation to public health problems not commonly met with in the U. S. A. In addition, every year some of our students seek training in some of the fine old clinical centers in Britain and Scandinavia. It is not, of course, that the basic medical tenets or techniques are so different in these countries, but that the priorities of concern, the incidence of different kinds of disease, and above all the opportunities for cross-cultural understanding differ markedly from what obtains at home. These visits to other lands and medical climates appeal to our students, relieve a certain cloistered aspect of their education at home, and generally aid their motivation and sense of personal contribution to the world.

It is commonly heard that there is a closer spirit of cooperation between faculty and students in medical schools than in law schools. At least one can agree that there is a smaller faculty-to-student ratio in medical schools. Even in the teaching of the basic medical sciences, where clinical responsibilities do not exist, the ratio is of the order of ten to one. This very favorable ratio is of fairly recent origin, and did not obtain when physiology, biochemistry or pharmacology were taught mostly by lecture. With the advent of laboratory teaching, and frequent association of faculty and students in research projects, the number of faculty in the basic medical science departments has risen rapidly. In the clinical disciplines, the faculty-student ratio may reach 1 to 2, or even 1 to 1, in many clinical circumstances. This has resulted both from the very real role medical students have assumed in the clinical care team, and from the decline of more didactic forms of clinical teaching consciously accomplished by the faculty. Teachers in clinical departments also perform more research than in past years, and are involving students increasingly in such activities. These altered relationships undoubtedly confer a sense of close cooperation between faculty and students in medical schools, an enviable situation in these days of large schools and classes, and lonely, disaffected students.

It seems to have been possible for medical schools to remain somewhat closer to the community than has been true for law schools. The principal reason for this appears to be that medical schools have traditionally provided a portion of the communities' care directly. Medical schools have long assumed care for urban indigent populations to a considerable extent. More recently medical schools are serving increasingly as centers to which any physician may refer his problem cases. Certain knowledge, techniques, treatments and experts are only available in university medical centers. Of course, these clinical responsibilities weigh heavily on medical schools in terms of dollars and time spent, though there are large returns from the experiences afforded to those in training, and from the increased interest of the community in the welfare of medical schools.

As an extension of the above discussion of some of the differences between law and medicine as reflected in their educational practices, one can ask why there is so much clinical work in medical schools. A major part of the answer is historical and has been described in the first part of this paper. There is a strong tradition of apprenticeship in medicine, dating from the time when there was no certain knowledge; therefore books and lectures were useless vehicles. The apprentice learned by imitating what the master did, what he had found most suitable to do over the years in a given circumstance. Law students have always had written opinions to which to refer, in addition to what they have obtained more directly from their teachers. So in a way, the strong clinical basis of medical education descends from an intellectually poverty-stricken past, and not so distant either. In addition, the massive amount of information made available over the last twenty years by the explosion of knowledge in the basic physical, chemical and biological sciences has many applications to clinical medicine. Assimilation of this new knowledge by the clinical disciplines is incomplete, and it is no wonder that this factor adds appreciably to the time demands made on the medical school curriculum by clinical education.

The immediate demands of many medical circumstances perhaps have enjoined more "practice" before conferring the M. D. than is the case with the L. L. B. After all, a fledgling lawyer is not called on to handle a legal analog of an arterial laceration, a breech birth, a suicide attempt, or a heart attack, on his first day of practice, perhaps without recourse to the help of a more experienced man, or a chance that the case can be put over.

Other questions are suggested by past experiences of medical schools. It may be taken that many medical schools have not handled the problems presented below in an entirely satisfactory manner, and that the sad voice of experience speaks, perhaps fruitfully for those considering changes in the teaching of the law

What of the physical placing of a medical school? Ideally it should be near strong academic basic sciences and humanities relevant to medicine, and also sufficient numbers and varieties of patients and doctors of the community. But it has seldom proved possible for many medical schools to accomplish all of these aims. Formerly, most schools were located in large urban centers, close to a mass of indigent patients, though often distant from the many relevant background and supporting disciplines of their parent universities. More recently there has occurred a relocation of some medical schools, away from the old urban sources of indigent patients, and into a closer relation with all the activities of

a great modern university. New sources of clinical material have had to be found, a task which has sometimes proved difficult. Law Schools may wish to devote some thought to choosing a location near courts, near a large university, or near population centers of lawyers and their clients.

What problems are posed by having both practitioners and researchers on the faculty? In medicine it is ideal for student education and successful cross-fertilization of ideas among faculty members. But we have experienced one danger from such an arrangement, that is, a differential in the regard in which they are held, and in promotion and recompense, between the two kinds of teachers. The academic leaders of the law school will have to steer a nice course in egalitarianism here, for there are important effects on faculty and students alike if one has in fact first and second class citizens, whichever is first. Medical schools have also experienced other difficulties from interactions between teaching and research. One sometimes hears teachers of the basic medical sciences criticized for allowing their research activities to be so consuming as to prevent their devoting sufficient time to student learning. However, this criticism is levelled far more often and vigorously at teachers in the clinical disciplines. There are many reasons for this, some of which must engender sympathy for the clinician-teacher. It is hard for most people to comprehend the time and emotional demands placed on such a teacher by his clinical work, and this in turn must have effects on the kind of research he can perform, the priority he can give it, and the quality of his work. It is fair to say that law and medical schools need more and better clinical teaching, but clinical activities of faculties have fairly predictable results: scholarly work may not be prevented, and may even take a pragmatic turn of a high order, but it will certainly be altered by the demands of clinical teaching.

If a school is funded to a major extent by public monies, what effect does this have? None but the best if the school is free to balance expenditures intramurally itself between support for teaching and for research. As is well known, the last 15 years or so medical schools have failed to persuade the federal government to be so latitudinarian, with the result that research has flourished and teaching, a costly enterprise, has languished.

What may be the major effect on students of having some real practicing lawyers and doctors on full time faculties? The benefits conferred on student motivation can be enormous. It is a direct answer to cries of relevance, and can often serve to narrow the gap between what is held aside as theory, and what is directly brought to bear on problems of individuals in full view of our students.

What can one expect in terms of the costs necessitated by clinical programs? It would be hard to estimate for law schools, but comfort can be taken from the probability that costs will not approach those of a clinical program in a medical school. About 200 of the 350 full time faculty members of the Stanford University School of Medicine are engaged partially or wholly in clinical teaching. The total budget of the school is approximately $22,000,000, of which 70% is probably spent for support of clinical education. One cannot imagine the law school's necessity for such items as operating rooms, clinics, technical equipment, nor the number of teachers medical schools seem to require because of the necessity of small group teaching in so many diverse fields of clinical medicine. How

inexpensively it can be done by law schools can not be guessed, but undoubtedly pilot programs will be very helpful in terms of curricular planning and cost predictions.

How would one evaluate whether clinical experience added to the law school curriculum produced an improvement or a distemper in student learning? This is an important but difficult task. In medical schools we evaluate student performance in several ways, although we cannot claim clarity of results from these efforts. There are intramural and national testing procedures which are of some aid. We are beginning to obtain evaluations from the hospitals where our students go to work after receiving their M. D. degrees, and to compare these with our own evaluations of these same people while they were students. We have not explored evaluating the education of groups of students drawn from the same class but following different curricula. Nor have we cooperated with another similar school to explore evaluation of results of contrasting methods of education. Perhaps the law schools have a real opportunity to perform this kind of much-needed study.

What are the relations between medical students and patients? As has been pointed out in the first section of this paper, most patients seem to like the ministrations of most medical students. The student's status as an important member of the team is appreciated by the patient. He likes the extensive attention he receives from the student, and most times understands that there is adequate supervision from more experienced hands. Most patients seem to realize that the only way to have good doctors in the future is to be sure the medical students of today are well trained. It is not rare that the student, who has not learned shortcuts and other bad habits, will actually come up with an observation that his busier seniors will have missed. One criterion of a faculty member's ability to teach clinical medicine is: Can he hasten the attitudinal and intellectual development of his students by increasingly independent assumption of clinical responsibilities at the same time that he safeguards the patient's rights, course and comfort? Of course it is possible to discern a conflict of interest between education and treatment objectives in the medical school clinical teaching setting, but if roles and responsibilities are clearly indicated and understood by staff and patients alike, little in the way of a price is paid practically by most patients at a university medical school facility compared with the benefits accruing from the many expertnesses available. Parenthetically, one wonders what will be the sources of clients for law students? If the history of medical schools is recapitulated in this regard, these clients will be indigents at first, with all the criticism this will draw. Such criticism can be safely predicted from medical school experiences. When medical students worked almost exclusively with indigent patients, as was true a generation ago, resentment was felt by patients at being consigned to the least experienced among the medical community. This resentment was also directed against the demeaning conditions and long waiting periods characteristic of the county hospital or university clinic of those days. Many changes have occurred in this scene in recent years, however. With the advent of various medical insurance provisions the modern medical student works increasingly with the private patient referred to the university clinic or hospital. The student sometimes does not know whether he prefers the indigent patients with common diseases, or the referred middle-class patients with rare or difficult problems. Social or medical educational criticism can be levelled at either choice. What medical schools are beginning to strive for is to provide their students with many diverse kinds of experiences, involving patients of varying social

backgrounds and economic condition, who exemplify a broad spectrum of diseases. Many future medical school experiences may be gained in rural areas, in ghettos, in private clinics and offices, and in other lands, all quite distant from the medical school proper. Eventually perhaps law students will assist in the care of middle class clients as well as ghetto, rural and international problem cases, and will have broad experiences while they are still students in fields as diverse as tax and corporate law, personal injury, and the drawing of wills.

Are simulated conditions used in clinical teaching at medical schools? This is done rarely, nothing like the law schools' use of the mock trial. Instead we try to provide the student with wide experiences which gradually increase in complexity during his clinical training. This serves two purposes: it helps protect the patient from the tyro, and it allows that vital, slow, steady growth of confidence in the student's image of himself as a physician, a process which is possibly as close as one can get to the real purpose of a medical school.

Finally, would the inclusion of clinical activities in a law school have important effects on the community? One could suspect it would, reasoning from the experiences of medical schools. First, the referral of difficult clinical problems to the medical school is common. This serves as motivation for medical students and faculty alike, and certainly results in the public feeling personally the societal value of the institution they support. Second, the case referral contact between community and school practioners has value as a device for continuing postgraduate education. Perhaps law schools have demonstrated responsibility for continued care and nurture of their graduates more effectively than have the medical schools. But if not, cooperation in the nature of referral of problem cases may be an effective way to do this, and is often a more palatable form of postgraduate education than lectures and the like.

In summary, then, the American medical student has, for the last 60 years, spent the latter half of his time in medical school as a member of a team learning to assume responsibility for the care of the sick. The benefits of this educational method are apparent: it provides a very strong motivation for the student to acquire the knowledge and attitudes necessary to be a good physician, and it allows him, rather promptly upon graduation, to function as a responsible, if not yet very experienced physician. Nevertheless, this generally successful education method is being criticized. Today's students often doubt the relevance of the first half of the medical school curriculum, the basic medical sciences, to the practice of clinical medicine. They also feel that clinical experiences in a medical school, so often consisting of rare diseases among the relatively well-to-do, do not sufficiently reflect the common medical needs of the more deprived segments of the population. Medical school faculties also come in for student criticism, being thought to be less adequate teachers of clinical medicine than they should be, insufficiently concerned with social problems as they relate to medical care, and too occupied with their personal research efforts. These problems, and undoubtedly others will similarly afflict the law schools even as they seek to introduce the relevant clinical training that most students favor.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. II, No. 4, December 1969

Introductory Note

Recently I was asked to speak at the annual conference of the National Legal Aid & Defender Association in opposition to a standard for legal aid attorneys which purports to limit caseload so that legal aid can engage in law reform activities. I agreed to do so, but not because of any opposition on my part to limitation of caseload, which as my remarks indicate, is a spurious issue. The standard was adopted. It was the commentary and the spirit behind the standard, and some of my experience in CLEPR's program and previously with legal services, which compelled me to speak as I did.

There is always a need to balance client service and law reform. But diagnosis and treatment of the individual's ills under the law is the fundamental job that will not disappear. It is the lawyer's responsibility to provide this service or to see that it is provided. As we know from medicine, research and discovery of vaccines and drugs and administration of public health programs have not displaced our personal needs for medical care.

I have seen a growth of intellectual escapism from the beginning in the development of the anti-poverty legal services program. The same syndrome has appeared in certain quarters in legal education when confronted with the suggestion that clinical legal education means a direct involvement with clients - not in the mass but as individuals. Sensing the popularity of the term "clinical" some legal educators are wont to define "clinical" as almost any non-classroom program - even if it does not involve any lawyer-client involvement. With a sincerity it is impossible to fault and an aptness for the well turned phrase, buttressed by the lawyer's skill for brief writing, some of these educators are exceedingly articulate in putting forth a variety of programs they define as clinical, though they do not include the classical lawyer-client experience.

Those who place so much emphasis on limiting caseload and those who eschew the lawyer-client aspect of clinical legal activities may help law reform, but they will not provide the legal services required; in the case of legal education they will not learn to utilize the educational values inherent in the classical clinical experience or help the future lawyers of America to understand that the messy job of cleaning up the cesspools of justice requires personal service in these places, and not just intellectual formulations of panaceas left to "others" to put into practice, if practical they be. Professional education for the law should combine the experience of work and service with clients within an intellectual framework.

If some legal service personnel and some legal educators slight the need for individual lawyer-client involvement and service, do they share certain underlying attitudes? Perhaps they do. After reading the text which follows, you may wish to send us your comments. We would welcome them. You may wish to refer to the following CLEPR newsletters which are closely related: Vol. I, #4 (a statement on CLEPR's program); Vol. II #1 (educational values in clinical legal education); Vol. II, #2 (containing a reprint of Chief Justice Burger's remarks on The Future of Legal Education).

LIMITATION OF CASELOAD -- WHAT'S THE REAL ISSUE?

I have had the benefit of reading the article by Carol Silver entitled "The Imminent Failure of Legal Services for the Poor: Why and How to Limit Caseload" (Journal of Urban Law, volume forty-six, issue 2, 1969). So while I have heard a brief for limitation of caseload presented orally many times, I have the advantage this time of a very recent statement in writing.

We are speaking of turning away clients from legal aid so that lawyers may save their time to reform the system and thereby save thousands instead of a few. At least that's the claim. To me it sounds like a cop-out from hard, sometimes unrewarding work in favor of a cleaner existence, which may even get you a star on your office door and your name on the marquee if you win the big test case.

The article, as well as the statements I have heard before, really create a spurious issue. Every caseload of necessity has to be limited and is limited. If some limitations are not imposed, arbitrarily or otherwise, caseloads limit themselves. No matter what, and no matter what the field of service to individuals, there comes a point sooner or later -- unless there is no need or no ability to pay for the service -- where there are just not enough persons available to provide the service. There is never equilibrium of supply and demand, so to speak; and if the service is a useful or essential one, as lawyer's services are, then the demand, if liberated and financed, will outstrip the supply. Legal aid and OEO legal programs prove this. Therefore, there is no real issue about limitation of caseload. It is not a question of whether. It is a fact. There are specifics about how one goes about it in particular situations. But I have yet to hear or read anything which provides tangible guidelines at the operating level in such specific situations.

What has come through to me over the years has been an attitude on the part of those who attempt to make a social virtue out of what must be at best undesirable and at worst evil, that is the withholding of legal services required by an individual. It is an attitude that reflects an easiness of conscience in confronting the fact of less service to individuals. Since most persons would agree that some legal talent in every situation must be dedicated to what may be described as law reform activities, it is an attitude that calls for closer scrutiny and criticism because it must reflect more fundamental issues and conflicts in values. One could argue about how many lawyers in any particular office should be working on law reform, test cases, class actions, etc., as contrasted to serving individuals. But

those who carry on a crusade for limitation of caseload seem to go beyond this problem to chip away at the entire concept of serving people.

We must bring to the surface the much deeper philosophical problem involved and recognize it for what it is. Until we do, we shall continue to walk around the real issues and deal with this phoney issue of caseload limitation.

To begin with, higher education does not deal in its subject matter content with individuals. The law schools are no exception, even though there are always individual parties in the cases which form the grist of the case method in law school. The pride of the law schools, just as it is in other academic disciplines, is the training given to the students for dealing with broad concepts. Essentially education in school deals with concepts and education in people comes from life. The law schools have found it particularly difficult to cope with the fact that they are also training people for a practicing profession which has to deal directly with individuals, where ease in handling abstract concepts is not enough. But the law schools have been singularly successful until quite recently in keeping the students out of the clinic of life. Thus the law school graduate, particularly the graduate of the national school which is regarded with awe and respect, is concept and issue oriented. Having gone through a long period of higher education, he has been trained away psychologically from people to issues. Like it or not, this has reflected itself in the world of practice, in the traditional drift of the most successful students to the larger law firm, a career which has lately become decidedly less popular with some of these students, and in fact has become an object of attack as part of the so-called Establishment. But while the larger law firm has lost its attraction, the field of law reform increasingly gathers into its fold those same non-people oriented young lawyers, who now find law reform and the restructuring of the society providing for their psyches a much more satisfying outlet. Instead of engineering corporate reorganizations and tax avoidance schemes, there is social significance in engineering the social structure.

What is troublesome is that in both processes, engineering corporate reorganizations and engineering social reform, the common man as an individual tends to get lost. They're for him as a cause, but they don't want to cope with him in person. He's easier to handle that way. At least those who engineer corporate reorganizations do not too often premise their action on benefits for the masses, while those who are law reformers predicate their actions entirely on what they think is good for the people.

For those who still consider the study of history "relevant," and I put relevant in quotes with malice aforethought, there is something familiar and saddening about this spectacle. I continue to learn from history - past and present. I see among the law reformers who eschew service to individuals the purported adherence to a structure which historically has gone under the banner of returning power to the people - certainly one of the most important objectives in any society. But there are the doubts about whether this alleged objective is genuine or a facade. One wonders whether those who promote the idea always believe in so-called participatory democracy, or whether it is a beautiful device for manipulating democratic procedures to gain only apparent endorsement of plans which have already been contrived by those who are leading a movement. Then there is the disappointment for the reader of history when he seeks to find the example of the good society which has yet eliminated the

need for individual aid and representation both in respect to another individual and in respect to the instruments of the organized society. Start the new society tomorrow and I for one would want to be surer than ever that I had at least the benefits of individual rights and legal assistance that I have today. Thirty-five years ago we struggled to establish labor unions. Now we realize that individuals may need to assert rights against those same unions. The student of history may conclude that one should be wary of any movement which puts so much emphasis on group solutions, lest in the name of virtue its leaders again submerge the individual who is held out to be the intended beneficiary of reforms. King Solomon derived his reputation for wisdom and justice by deciding the individual case and not by virtue of being a legislator.

I have no quarrel with those who say in a particular situation that it is not wise or desirable to have every lawyer working only on serving individual clients. Neither is this desirable from an overall viewpoint. But I have never been able to join company with those who have made such an argument for limitation of caseload that I came to feel they had lost sight of the difference between group problems and law reform on the one hand and justice for the individual, which is another matter. It is important for the profession and for the society to have crusaders who use the law to change institutions and arrangements which adversely affect groups and masses. It is more than important, it is essential. They are people, who when violence is held up by others as the only way, continue to carry the banner of peaceful change, which is what law offers us and what we have struggled to establish through the ages as man's answer to the law of the jungle. But before everything else, the legal profession must have lawyers with an appreciation of the concept of justice. Justice is the right thing and the fair thing for the individual regardless of how generally beneficial the institutions of society may be made. The greatest challenge is to arrive at justice for the individual, because the forces of society can always be brought to bear in an overwhelming way against the individual and there are always more powerful individuals who seek to exploit. Disregard for the individual can lead to tyranny no matter under what banner it parades, and sometimes we may be marching in such a procession without knowing it. History has as many examples of tyranny imposed by so-called progressive revolutions as of any other kind.

Let me recall for you that shortly after our constitution was adopted the Bill of Rights was added, guaranteeing to each person those inalienable rights of which the Declaration of Independence spoke. Indeed, all the work of law reform depends on this concept of individual rights - that each individual can assert his rights against anybody and the whole world, if need be, and that this assertion and challenge does not require association with any other individual or group for the purpose of such action.

When individuals do not have the feeling and the belief that they have this way of being represented, they lose respect for themselves and for the society. Then we are really in trouble.

William Pincus

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Vol. II, No. 5, January 1970

CLEPR ANNOUNCES THIRTEEN NEW GRANTS

CLEPR grants totalling $764,000 have been awarded to 13 clinical legal education programs at law schools throughout the country. UCLA, CASE WESTERN, COLUMBIA, HOWARD, MARQUETTE, MIAMI, NEW YORK LAW SCHOOL, NEW YORK UNIVERSITY, SYRACUSE, TOLEDO, WAYNE STATE, YALE and VILLANOVA will direct these clinical projects.

In more than half the projects, funds will be used to bring existing programs into the regular curriculum for credit, to provide adequate supervision and to increase the number of students participating. This major allocation of funds reflects CLEPR's major task at this time - to introduce new clinical programs and to bring a proliferation of existing clinical courses into the mainstream of legal education with the organization and supervision that will guarantee their educational value. By thus emphasizing pedagogy, CLEPR does not downgrade more innovative programs. Clinical legal education needs - and has room for - experimental programs. But experimental programs must be judged against clinical courses of proven educational value operating within the law school curriculum.

Furthermore, several new CLEPR grants do open up new territory in clinical legal education. In some projects, teachers and students will be placed in settings different from those ordinarily found in clinical projects. In others, imaginative methodology will hopefully produce economies of both cost and time and have a salutary effect on learning.

A third group of projects give priority to such areas as juvenile problems, criminal defense and corrections, where need is great and manpower limited. By supporting projects in these areas, CLEPR hopes to implement efforts toward law reform and the amelioration of social problems.

*****

A clinical legal education program which will seek to improve conditions in a lower middle-class, largely black neighborhood will be launched by CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW with the help of a three-year CLEPR grant starting January 1, 1970.

Located in Cleveland, the law school enrolls 400 full-time students, two-thirds from Ohio. Most of its graduates practice in urban centers in the state. The clinical program will focus on Cleveland's Mount Pleasant area where the law school has built close working relationships through its continuing assistance to the Mt. Pleasant Community Development Foundation.

As a prerequisite to field work, all second and third-year students will be offered a one-semester, two-credit course in the legal problems of community development. The course will also give students an introductory understanding of practice skills including insights into problems of professional responsibility. Teaching will utilize the team method, using faculty members and local lawyers to prepare materials and hold sessions based on real-life situations.

Based on their course performance, a maximum of 40 students will be selected for the field work program and concurrent seminar on problems encountered in field work. Five credits per semester will be given for the two-part course, which may be taken for one or two semesters.

In the field, students will rotate between work on community problems and work on the legal problems of individual residents. In the first area, students will assist local development groups in improving and preserving the neighborhood.

Students working with individuals will provide legal assistance with such matters as landlord-tenant, domestic, and consumer problems and will represent indigents in criminal misdemeanor matters. (The Ohio Supreme Court allows students under certain conditions to represent indigents in any stage of litigation in civil action or misdemeanor cases.)

At least 10 office hours per week, plus additional time for meetings, investigation and hearings will be required - all under direct supervision of the director of the clinical program and his assistant.

In sum, the program will provide students with an opportunity to confront the broad variety of legal needs in a community and to see the consequences of inadequate response to those needs. They will perceive inter-relationships between the solution of legal problems and the social and economic health of individuals and neighborhoods. Also, they will be exposed to situations which will develop their understanding of lawyers' work and its dependence on knowledge of other disciplines and assistance from other professionals.

*****

The COLUMBIA UNIVERSITY SCHOOL OF LAW will establish its first credit-carrying clinical legal education program with the help of a $75,000 CLEPR grant to be used over two years beginning January 1, 1970.

Until this time, Columbia students interested in clinical work have been limited to elective clinical courses carrying no credit, a classroom course in law and poverty, a course in metropolitan problems and seminars in welfare rights, urban and human renewal, poverty and property, consumer credit and labor problems.

Now, however, clinical education will receive a significant advance with the establishment of the Columbia Legal Assistance Resource (CLAR), a referral unit for community groups which will handle large and complex legal problems and projects. Unlike neighborhood law offices serving individuals, CLAR will serve legal services agencies and non-legal community organizations such as tenant and consumer groups.

Approximately 30 to 40 second and third-year students will compete for enrollment in the program each year. They will earn three credits per semester for one or two semesters and may continue to work in the program without credit after that time. At least 15 hours of work per week will be required.

Two full-time faculty members will direct the program, supervise the students and take an active role in consulting with community groups and engaging in litigation. They will also conduct a regular seminar for students in the program in order to extract educational content from student work experiences. The seminars will be supplemented with extensive tutorials wherein supervisors will discuss individual student work.

*****

A Center for Clinical Legal Studies at HOWARD UNIVERSITY SCHOOL OF LAW will launch a coordinated, comprehensive clinical program with the help of a $60,000 CLEPR grant to be used on a declining basis over three years beginning January 1, 1970.

The grant will enable faculty members of the primarily black institution to devote themselves to the supervision and educational development of a program designed to improve legal services for the poor. The program's value will be measured by its effect both on the community and on the law school curriculum.

Twenty-five to thirty second and third-year students will take part in the program which includes three kinds of clinical experiences and one academic section. Each component consists of a one-semester course carrying two credits.

Two of the clinical experiences will be directly in legal services. First, students may choose among service with the Howard-OEO legal services office, the D.C. Legal Aid Agency, and selected private attorneys. Second, they have a choice of service as "house counsel" to one of the following types of community organizations: tenants' association, welfare rights group, business co-op, development project, etc. The third type of clinical offering entails work with a community education task force to develop and implement lay legal education programs on landlord-tenant law, welfare law, credit transactions, etc. The academic component involves work on a team doing empirical research and writing on legal problems in these areas generally as well as in connection with test cases and class actions.

The Center will have a nine-man board composed of three faculty and three non-faculty members and three law students. Two faculty members, each devoting half-time to the project, will initially provide supervision. However, Howard expects to recruit a clinical professor for full-time work on the program.

*****

A juvenile law clinical internship program at MARQUETTE UNIVERSITY LAW SCHOOL will receive a $30,000 CLEPR grant to be used over two years beginning January 1, 1970. Marquette is located in downtown Milwaukee. The law school, with a faculty of 13 and an enrollment of 300, graduates one-third of the lawyers practicing in Wisconsin.

Ten students will take part in the program during the last semester of their second year and the first semester of their third, with four of them working during the intervening summer. Four hours of credit will be awarded each semester.

The program's first three weeks will consist of daily orientation classes on juvenile law and procedure with emphasis on Wisconsin. For the remaining 12 weeks, students will participate in the clinic established in cooperation with the Children's Court of Milwaukee. They will work four hours a week on a rotating basis with the District Attorney's Office, the Voluntary Defender Program set up by the Legal Aid Society at the Children's Court, the court's Detention Center, and public and private agencies dealing with juvenile offender problems.

Students assigned to Voluntary Defender will prepare briefs, interview witnesses and gather information. Those in the District Attorney's Office will help draft pleadings, do legal research and attend trials of cases they helped prepare. Students with the court's Intake and Detention Department will also act as interns or youth officers in the detention home for youths confined before and after court disposition. In addition, some students will become information aides with agencies dealing with central city youth.

Hopefully, students will eventually intern with the Youth Aid Bureau of the Milwaukee Police Department and regular welfare agencies dealing with juvenile offender problems. Here they will gain insights into the environmental factors which breed delinquency and lawlessness.

During the clinical phase, students will have daily contact with their supervisor plus weekly meetings to evaluate their experiences and to suggest and explore methods of reforming the juvenile law system, especially court procedure and the rehabilitation and education of juveniles in custody.

During the summer,four students will spend ten weeks in a Wisconsin juvenile correctional institution acting as legal information aides and personal counselors, and possibly providing teaching assistance to the academic staff. Periodic meetings with faculty will be held.

In the third year, students will take on larger, more responsible assignments and will write a paper on the administration of juvenile justice or on rehabilitation of juvenile offenders, with reform proposals or drafts of remedial legislation included where applicable.

*****

An integrated, three-year clinical program in criminal law at the UNIVERSITY OF MIAMI LAW SCHOOL will be funded with the help of a $30,000 CLEPR grant. The grant will be used on a declining basis over two years.

Miami enrolls some 500 students, and about half its graduates start their practice in Florida. Miami has indicated one of the most ambitious projections for clinical legal education. The school plans to erect a high-rise building in downtown Miami which will house state, local and federal courts and a number of practicing lawyers. Students would spend their entire third year here, taking some other classes but engaged primarily in clinical work including court appearances. A Supreme Court rule allows third-year students to appear in court under certain conditions on behalf of indigent criminal defendants.

For the immediate future, however, a grant from CLEPR will partially support a director and assistant for a clinical program which insures that third-year students derive the greatest benefit from a Criminal Law Workshop.

To this end, students in their first semester (first year) will engage in field observation to complement their classwork in criminal procedure including arrest, search and seizure, and confessions. Observation will take place in cooperation with the Police Department and at the offices of the State Attorney and Public Defender.

During the second semester, substantive criminal law will be covered through a programmed text while field observation will continue, mostly in the Public Defender's Office.

Limited participation in interviews, case investigation, preliminary and pre-trial hearings also will be included. In addition, students will observe a trial and attend a post-trial analysis by the presiding judge.

In the fourth semester, 20 selected students will attend a criminal trial practice seminar run along the lines of a moot court program. Two hours of credit will be given. During the last year, students will work with prosecutors and defense attorneys in the Criminal Law Workshop, participating in all activities performed by an attorney in trial and appeal of criminal cases. Students will undertake these activities in various courts and from the perspective of the defense, prosecution and the court itself. In addition, students will clerk for a judge of the Circuit Court or Criminal Court of Record. Again, two hours of credit will be given and supervision provided by faculty members and the personnel of cooperating agencies.

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Students at the NEW YORK SCHOOL OF LAW will work in the District Attorney's Office of New York County in a Criminal Justice Program funded by a $17,000 grant from CLEPR, to be used on a declining basis for two years beginning February 1970.

The entire third-year class of day students will take part in the program which consists of field work plus a concurrent course in the Administration of Criminal Justice. In 1970, 30 third-year students who have completed the school's Law School-Society Participation course (originally funded by COEPR), will take part; in 1971, 35 students will participate. The course lasts one semester, with half the students enrolled per semester and two credits awarded.

Students assigned to the Complaint Room of the District Attorney's Office will interview complainants and assist in determining violations and charges. In the area of protection of constitutional rights, they will analyze police arrests, determine whether the Miranda warning has been properly given and see that defendants have been served with proper notices. Students assigned to the calendar parts of the Criminal Court will help the Assistant D.A.'s on motions and hearings, handle files, determine the presence of witnesses and see that subpoenas are served in court where necessary. Most students will also have the opportunity to interview witnesses. At the same time, efforts will be made to have students follow through on individual cases to the trial stage where possible.

The Assistant D.A.'s will give an orientation course and will provide direct field work supervision.

The assistant director of the clinic program will visit the D.A.'s office once a week to help select assignments and give on-site assistance to students. Classes will be conducted by two faculty members, each responsible for holding individual weekly conferences with half the students. In conferences, fieldwork will be analyzed and put in perspective. Students will prepare a fieldwork report containing specific observations and analyses of problems confronted and suggestions for improving the administration of criminal justice.

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Law Students will serve as "house counsel" to community groups in a clinical program at NEW YORK UNIVERSITY LAW SCHOOL to be partially funded by a $77,000 CLEPR grant. Starting in January 1970, the grant will be used on a declining basis over two years.

Broadening the involvement of NYU in clinical education experiments, the new program will assign students in groups of two and three as counsel to non-profit community groups, much as lawyers serve as paid counsel to various organizations. These groups will include cooperatives, tenant organizations, narcotics rehabilitation centers, neighborhood renewal groups, etc. As house counsel, students will assist in possible litigation, appearances before administrative agencies, hearings before public bodies, negotiations and advice on legal rights and remedies generally.

In 1970, 15 second-year students will take part in the program; in 1971, 30 will participate. Students will receive at least four hours credit for two semesters' work in the "urban laboratory" which also includes weekly seminars.

Some program supervision will be provided by the 22 VISTA lawyers in their second graduate year in the NYU-VISTA program with these same community groups. In addition, two faculty members will spend one-third of their time on the program, and two attorneys with experience in poverty and urban law will be given full faculty status and will spend full time in fieldwork supervision and work with students and client groups.

To ensure educational soundness, a faculty committee will pre-audit field assignments and review work done. The committee also will rule on policy questions related to the law school's involvement in community affairs.

The new clinical program is expected to accelerate the school's efforts to reconcile the heavy time demands of clinical experience with the use of time for other parts of the curriculum. Also, the program will provide additional experience for gauging the requirements for adequate supervision of student placements which are scattered.

*****

Clinical experience for all third-year students will be required in a new credit-carrying program at SYRACUSE UNIVERSITY COLLEGE OF LAW, run with the help of a $77,500 CLEPR grant to be used on a declining basis over three years beginning September 1970.

In the new program, four hitherto unrelated and extra-curricular activities will be made an important part of the regular curriculum, along with several additional components. All seniors will be required to take four credit hours in two clinical courses involving one actual and one simulated clinical experience.

Seniors may choose their actual experience from among the Legal Aid Clinic, Neighborhood Legal Services Clinic, Assigned Counsel Program, District Attorney's Program or a new Psychiatric Defense Center.

Created by the law school and the State University of New York Upstate Medical Center at Syracuse, the Psychiatric Defense Center will provide legal and medical assistance to patients in state mental institutions. A number of these patients are involuntarily committed and involuntarily held, but are usually without access to legal representation. The Defense Center should help broaden legal training in this area of forensic medicine while providing guidelines for needed reforms affecting the allegedly mentally ill and incompetent.

For their simulated clinical experience, students will choose between a business or law-medicine trial clinic. The business clinic will expand an existing program run by the law school and the College of Business Administration at no charge to the CLEPR grant. Here students will investigate a fairly complex corporate transaction and counsel a "live" business client from the outside.

The law-medicine clinic, created in cooperation with Upstate Medical Center, will have law students and medical residents work with case histories of actual patients. The simulated part would involve investigation, preparation and presentation of a moot court trial

based on the patient's actual medical problems, with medical and law students dividing into teams for plaintiff and defendant. These simulated experiences will serve as valuable teaching devices and will enable students to gain experience in legal problems in important non-poverty areas.

*****

The UNIVERSITY OF TOLEDO COLLEGE OF LAW will be able to integrate and enlarge its existing clinical programs in criminal law, provide a classroom component and expand into two new areas, as a result of the addition of a full-time director who will be paid with the help of a $36,500 CLEPR grant. These funds will be used on a declining basis over two years beginning January 1970.

A state institution since 1967, the University of Toledo is increasing its law school enrollment from 350 to 800, with the completion of its new Law Center. A long-time advocate of clinical programs, the school will at last be able to provide students with a full range of clinical experiences in criminal law under adequate supervision. Relieved of all classes, the new director will have enough time to oversee student fieldwork in three different settings of a Criminal Justice Clinic (County Prosecutor's Office, Toledo Municipal Court and Toledo Legal Aid Society) and in a Habeas Corpus Clinic.

With full-time supervision, the number of students will be increased by one-third and the clinical experience extended to a full academic year. Thirty students in the Criminal Justice Clinic will have 8 to 12 hours of clinic work per week for 3 quarters, with 6 hours of credit; 15 students in Habeas Corpus Clinic will have 8 to 10 hours for 2 quarters, with 6 quarter hours credit.

Furthermore, the clinical program will be able to expand into two new areas; post-conviction remedies in Ohio courts and the development of interdisciplinary projects.

Interdisciplinary studies and projects will be launched with graduate students in Toledo's psychology and philosophy departments who will work with the clinic to study relationships between criminal activities and phenomena relevant to their disciplines.

In the related classroom work, the director will develop an academic program to support clinical work, and help students relate this work to larger problems of social justice and test case litigation.

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To help develop an integrated, supervised clinical program out of hitherto uncoordinated clinical activities, CLEPR has awarded $86,000 to the UNIVERSITY OF SOUTHERN CALIFORNIA, LOS ANGELES, SCHOOL OF LAW to be used over four years beginning September 1970.

The grant will help support the extra faculty and staff needed to organize under-supervised and unsupervised clinical activities into an educational program which is a regular part of the curriculum. Taking inventory, the school has categorized its "clinical" offerings and concluded that the existing programs suffer from a lack of close faculty supervision and application of coherent standards. The CLEPR grant hopes to remedy these deficiencies by enabling the school to build a team of persons completely involved in clinical legal education.

Under the new structure, clinical offerings will be handled on a team basis. Faculty members who have competence in a given area will offer classroom work in the applicable law. A clinical professor might do some classroom work but will primarily be responsible for overseeing fieldwork. He will observe and critique student work and will consult with faculty members and clinical associates. The clinical professor will be assisted by three or more clinical associates, young lawyers who will help supervise student fieldwork in each of several areas, such as criminal law and corrections. The associates also will perform the various activities needed for full client representation which students are not permitted to do in the absence of a student practice rule in California.

*****

Students will handle a broad range of juvenile cases not restricted to the poor alone in a clinical program run by VILLANOVA UNIVERSITY SCHOOL OF LAW in the Philadelphia Juvenile Court. A $60,000 CLEPR grant will provide partial support on a declining basis over two years beginning January 1, 1970.

The Villanova program is receiving strong backing from the Philadelphia bench and leaders of the city and state bar.

Cases will include Juvenile Court appointments and privately compensated cases. The clinical professor in charge of the program will turn over to Villanova all fees derived from both sources. (Under Pennsylvania law, fees are authorized for representation and for research and investigation of cases assigned by the court.) These sources of funds plus assistance from Villanova and from local foundations will supplement the CLEPR grant.

Fifty second and third-year students will take the clinical course as a two-credit elective consisting of a weekly two-hour seminar, a minimum of three hours of fieldwork and a term paper on a legal topic evolving out of the seminars. An intensive eight-hour orientation preceding the course will involve field trips, readings and a written report.

One or two students will be assigned to each case, and each will work on several cases per semester. Responsibilities will include field investigation, interviewing witnesses and preparing legal memoranda, motions and trial briefs. The director or her part-time assistant, a recent graduate and practicing attorney, will appear for each defendant, with students participating as associate counsels.

A subsidiary part of the program will involve students in initiation of direct petitions to the Juvenile Court for redress of erroneous or unsuitable commitments, either by individual writs of habeas corpus, petitions for rehearing or direct appeal to a higher court. Also, an innovative project will assign rotating teams of students to juvenile correctional institutions for weekly consultations with inmates desiring legal help. These students will then discuss future legal steps at weekly conferences with the clinical director.

The director and students will be assisted in an advisory capacity by an experienced criminal investigator, several practicing lawyers and special consultants who are experts in their fields.

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Law students will represent indigent defendants in criminal law cases and in several other kinds of cases in a clinical program at WAYNE STATE UNIVERSITY LAW SCHOOL which has received a $72,000 CLEPR grant to be used between September 1, 1970 and June 30, 1973.

Located in the inner-city of Detroit, Wayne State has begun to develop a substantial program of urban law which now includes 12 courses. In addition, most faculty members are integrating relevant urban law materials into the school's standard courses as well.

The clinical program will be part of the urban program. Seventy-five students, second and third-year, will enroll each year: 15 second-year students during the summer, 30 during the spring, and 30 third-year students in the fall. Spring and fall enrollees will work three full days a week for eight credits, while receiving seven credits for two days of regular classwork. Summer students will work five days a week for ten weeks to earn their eight credits.

With supervision by a Michigan attorney, students will be able to represent indigents at all stages of proceedings involving state criminal misdemeanor violations heard in the Detroit Recorder's Court, city ordinance misdemeanor violations heard in the Detroit Traffic Court, civil proceedings for temporary or permanent commitment to state mental institutions heard in Wayne County Probate Court, and petitions for release by individuals committed to state mental institutions heard in Federal and state courts. In addition, students will assist inmates on Federal habeas corpus petitions and will aid supervising attorneys on cases involving indigent defendants charged with felonies in the Detroit Recorder's Court and Wayne County Circuit Court.

Students will work on a minimum of two different types of cases during a semester, supervised by two clinical professors. With no teaching assignments outside the clinic, these men will be able to provide on-site instruction, hold individual conferences and conduct two-hour weekly seminars on tactical and procedural problems, professional ethics, social policy issues, and examinations of present legislation and court rules affecting indigent defendants. They will also offer a one-week orientation course on practice of criminal law in Detroit courts.

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Law students will gain experience and insight into the administration of justice for juvenile offenders, small claims defendants and prison inmates in a clinical program run by YALE UNIVERSITY LAW SCHOOL and funded by a grant from CLEPR.

A new grant of $60,000 to Yale, plus a re-grant of $10,585 remaining from a CLEPR grant for 1969-70, will make up a $70,585 grant to partially support a clinical legal education program over two years beginning January 1, 1970.

These funds will help run a legal clinic which will concentrate student legal assistance and related activities on the three aforementioned client groups. These groups were selected because they combine an important need for legal services, a strong likelihood of providing academic feedback, and an opportunity to explore avenues of institutional change.

About 60 students participating for two hours credit will be supervised full-time by a professor and two practicing attorneys. A third attorney will be added in 1971, and a panel of Connecticut lawyers will serve as outside resources. Regular seminars will complement fieldwork, and several students will be hired each summer to provide program continuity.

The prison project at the Federal Correctional Institution in nearby Danbury will eventually have students rendering legal assistance in all cases prisoners may file. At the same time, the project will expose students to the processes of the correctional system and the need for reform.

In the small claims adjudication process, while defending the disadvantaged, students will explore the burdens and perspectives of the judges and the economic and tactical problems of creditors who must resort regularly to small claims collection procedures.

Likewise, in defending youths under arrest, students will develop understanding of the need for and obstacles to improving the agencies, attitudes and techniques involved in the administration of juvenile justice. Both this program and the small claims program will operate out of a Yale storefront office.

As these programs go forward, the clinical program will explore further fields for student involvement such as the adult criminal justice system, police administration and civil justice. In addition, new programs and materials will be developed, and the number of participating students increased.

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William Pincus----------President, CLEPR
Toni Levi----------Editor

CONFERENCE SPOTLIGHTS LAW SCHOOL ROLE IN CORRECTIONAL PROCESS

Under a grant from CLEPR, the National Council on Crime and Delinquency convened a conference on the role of the law student in the correctional process at the University of New Mexico Law School in Albuquerque, September 4-6, 1969. The conference was attended by correctional administrators, law teachers, law students, attorneys practicing in the prisoners' rights area, and NCCD staff. CLEPR was represented by Mrs. Betty Fisher, Assistant to the President, and Peter Swords, Program Officer.

The conference opened with a dinner address by Milton G. Rector, Director of the National Council on Crime and Delinquency, on the need for litigation as a tool of correctional change. Mr. Rector outlined the interest of NCCD in this area, and noted that litigation can sometimes result in correctional changes that are welcomed by progressive administrators, but which cannot be achieved due to political pressure or bureaucratic malaise.

The conference was held in a workshop format, with no formal lectures, and with input coming entirely from the participants. After deciding on major areas for discussion, the group was broken into eight working sessions, dealing with such topics as: setting the goals of a law student in correction program; gaining student, faculty, law school administration, and correctional administration support for the program; outside influences on the program, such as political pressure, bar association support or opposition; and judicial reaction to programs for prisoners.

On the second evening of the conference, Judge John Oliver, of the Federal Court for the Western District of Missouri, gave an address on the uses and limitations of law students in correction programs.

The conference produced many contacts among law student in correction programs around the country, numerous personal friendships, and about 180 pages of notes. These notes will form the basis of a book on law student in correction programs, which is being prepared by Jeffrey Glen, conference director. Publication is anticipated in the summer of 1970, and copies will be distributed to all law student in correction programs.

Before the conference, NCCD published a "Directory of Law Student in Correction Programs," together with a guide for its use. This has been distributed to the deans of all American law schools, to the directors of correction in all American states, to the conference participants, and to anyone else interested in it. A second edition of the Directory will be published in the spring of 1970; several new programs have begun in the present academic year, and a number of law schools which had not reported on their programs before have asked to be included in the new Directory.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

280 Park Avenue • New York, N.Y. 10017 • Phone (212) 697-6800

Vol. II, No. 6, January, 1970

REPORT ON SECOND CLEPR WORKSHOP ON CLINICAL EDUCATION

The second of a series of CLEPR workshops on clinical legal education was held at CLEPR's office on November 10 and 11, 1969. Participants in the two-day conference were the following law school professors: Gary Bellow of the University of Southern California; Sam Dash of Georgetown University; William Lockhart of the University of Utah; Joseph Slowinski of Seton Hall University; Ed Sparer of the University of Pennsylvania; and Robert Viles of the University of Kentucky.

Representing CLEPR were William Pincus, President, and Peter Swords, Program Officer. The workshop was organized and chaired by Professor Lester Brickman who is spending the year with CLEPR while on leave of absence from the University of Toledo.

The discussion began with an examination of the universe of clinical education, that is, the number of students participating, the cost per student, etc. It became quickly apparent from a random review of clinical programs now being implemented at law schools that with the exception of a handful of schools, most clinical programs involve from eight to thirty students. When the question was posed whether this "elitist" approach was desirable, that is, why not clinical education for the masses?, the response questioned the implicit assumption of the question. It was pointed out that clinical education is in an experimental phase, and the existence of programs comprising relatively few students does not reflect a value choice on the part of law schools, but rather is an inherent condition of experimental undertakings.

One interesting point raised with regard to the numbers issue had to do with public relations. It was felt that if clinical programs continue to restrict themselves to small numbers of students, they are likely to court the disapproval of the outside world particularly as they involve themselves in highly sensitive cases. If the entire student body of the law school is involved, then descriptions in terms of "educational" rather than "agitational" are more likely to be applied. To illustrate this point, an analogy with a medical school clinical model was raised. Since every medical student participates in the clinical program, and is placed in a clinical situation where he might treat the average citizen as well as the most socially unpopular member of the community for gunshot wounds received in violently resisting lawful authority, no one finds fault with such an "educational" undertaking. The implications for the law school world are obvious.

By requiring all students to participate in clinical programs, we remove the program from the "cause" category. As for programs specializing in an area such as welfare, or landlord and tenant, the suggestion was to balance the experience. Thus if students work in the public defender's office, they should also work in the prosecutor's office. If they represent welfare clients, they should also have experience representing the welfare department. If they represent tenants, they should also represent landlords. Such a combination of experiences would also have desirable educational benefits in terms of giving the students a more realistic view of the situation.

A likely outgrowth of the balancing approach is the recognition of the need to involve students in representing middle class clients or working-class clients above the so-called poverty level. As pointed out in several studies, these groups receive generally inadequate legal services. Representation of these groups does raise the problem of fees. One participant suggested that rather than dispensing with fees, it would probably serve the ends of the clinical program if fees were collected. The fees could then be deposited into the general fund of the program. If the student's work is for a lawyer in the community, then the lawyer should reimburse the program for the time spent by the student.

Because of the diversity of work being done by the workshop participants, it was not surprising that there was much disagreement as to what an ideal clinical program would consist of. What was surprising was the disagreement over the definition of "clinical" and the reasons for this disagreement. One of the conferees pointed out that the Greek root of clinical meant "a man who attends at the bedside" and that therefore when applied to the world of legal education the definition should be: a student who deals with a client within the parameters of the lawyer-client relationship. Other participants objected to defining "clinical" in this fashion because of what might happen due to academic politics. It was their view that the realities of faculty appointments are such that labeling someone as a "clinical professor" automatically relegates him to second-class citizenship and therefore tends to defeat the very goal being sought; further, that communicating to the law school world that clinical programs simply involve a one-to-one practice experience with a client in a supervised setting with nothing more, in essence presents law schools with the very inviting opportunity to add a clinical program or two to its curriculum and then announce that it has concluded revision of its curriculum even though other fundamental faults exist; and finally that schools not wishing to go even that far, especially those that regard themselves as "highly academic" will thus be given the opportunity to "cop out" with the now venerable plea of: that's too practical, or that's what we have fought for the past thirty years to get away from.

In response to these intensely pragmatic views, others expressed concern that defining "clinical" in any other way than the supervised one-to-one lawyer-client relationship would provide many reluctant institutions with the ability to provide any non-classroom experience and call it "clinical." It was feared that some law schools, if presented with a choice of non-classroom experiences, would opt for field research or internship experiences and bypass any direct involvement with clients, all the while laying claim

to offering "clinical" programs. There was a consensus that clinical, internship, and field research experiences each had special values, and that they should not be confused one with another.

Another view expressed was that there is a need to have law schools meet the issues raised by clinical education in as direct a fashion as possible. That is, law schools should not be allowed to escape the confrontation between the educational implications of their present curricula and those of clinical programs. This latter view, of course, is deeply concerned with the educational goals attributed solely to clinical programs and set forth in this Newsletter in Volume II, No. 1 (September 1969).

Much of the discussion was devoted to teaching components and related programs. One of the participants who had been involved in teaching interviewing and counseling over the past few years, after considering his own experiences and those related by others at the workshop, suggested a new way to teach interviewing and counseling skills using live clients but avoiding the caseload problem. It is to have a legal aid program first assign cases to the instructor. Then the class would handle the interview of the client and the negotiations with the other side -- of course, under close supervision. If the case could not be settled at that point, however, it would then be returned to the legal aid program with a complete memo prepared by the student. In this fashion the teacher would avoid the time commitment that litigation entailed and thus be able to more effectively deal with one limited aspect of clinical education.

All conferees agreed that the course that makes the most demand on teaching skill is the integrative seminar. This is the seminar to which the clinical students return to discuss their cases, to be subjected to scrutiny as to why they did what they did, and to consider the broader ramifications of the provision of legal services. Because case input is generally not controlled in a clinical program and because the cases themselves are the materials that are the subject for the discussion, it is virtually impossible to follow a systematic development of issues as for example is done in a casebook. Moreover, the teacher "has to really know his stuff" because of the randomness and far-ranging nature of the legal issues that arise.

However, it was also the unanimous view of the conferees that the integrative seminar could not be dispensed with, being an integral part of the supervisory element of clinical education. Exposing the student to a one-to-one lawyer-client relationship without some kind of pick up, feedback system at the law school, which forces the student to reflect on what he is doing, means that some of the benefits of the clinical program are going largely untapped. Several participants ventured the view that unsupervised clinical experience could prove harmful because the student might learn the bad habits practiced by the prosecutor, public defender, or legal aid attorney, if he were not challenged to think about why things were being done the way they were and how improvements could be brought about. A critical spirit must be engendered in the clinical student. Just sending him out to practice law is not sufficient.

As a possible response to some of the problem situations already referred to, a new course requiring a new casebook was suggested. Basically it would involve selecting five to seven cases that the clinical program had handled in previous years, and treating these prototype cases so that they afforded complete coverage of the area. Students would receive the case files in a sequential fashion which would follow the chronology of the case. Input from the students would be built in. For example, at the proper time, students would draft interrogatories -- only afterward would they receive the actual interrogatories.

Many shortcomings in this proposal were pointed out. Only a very carefully constructed fact situation would do. Even so there is always the danger that one of the prime values of clinical education, the student's confrontation with an unstructured fact situation would be forfeited. Nor would there be the emotional commitment on the part of the student and the resultant experience in learning how to cope as a professional with the tensions produced. For these reasons it was agreed that the proposed course could not substitute for clinical work. Rather, it would possibly precede both the clinical experience and the integrative seminar as it is presently being taught. It was felt necessary by most participants that students should discuss the specific issues raised by the actual cases they were involved in. The conclusion was reached that such a course would ideally be a pre-sensitizing device for those who would go on to enroll in a clinical program. One of the participants in expressing criticism of present modes of legal education felt that such a course would be the ultimate replacement for the appellate casebook method because course content would then be more relevant to issues raised in practice.

The heartiness of the discussions was undoubtedly amplified by the diversity of present vocational undertakings represented by the workshop participants: some of them clinical, some empirical, and some of the field project variety.

One of the participants runs what might be called a fairly traditional clinical program in which law students represent small claims court litigants and penurius tenants obtained by referral from the legal aid society. The student work is supervised and is awarded course credit.

Another participant, with the help of a grant from CLEPR, runs a joint program with an OEO legal services program. In this venture, the equivalent of two and one half law school professors supervise the 100+ third year students, all of whom take on "two significant cases" by assignment from the downtown legal services office. The two full-time teacher-supervisors together have an average annual caseload of about 400. Difficulties have been encountered in this attempt to combine a teaching program and a service program under virtually the same roof. Due to the heavy caseloads, the supervisory function has suffered. Often this is reflected in the inability under the circumstances to move from the legal issues raised by the case to the broader litigative issues generally covered under the rubric of professional responsibility. Pressure is even now being brought by OEO's legal services branch on the teacher-supervisor lawyers to increase their caseload to OEO standards which is more than double their present load. Another of the participants who has had extensive experience in the legal services program felt

that a lawyer could not competently handle 200 cases annually, even if he did not have any teaching duties.

A third participant who has had wide experience with traditional clinical models recently concluded a course in which ten students handled a total of 40 cases over the period of a semester. At the outset of the course each student picked up two cases. Subsequently each student was assigned two additional cases by the instructor who himself obtained these cases by referral from various agencies. The attempt was made to give the students the broadest possible exposure to legal issues through selective assignment of the latter two cases based upon the issues involved in the initial two cases. The classroom was essentially a case conference in which students presented their cases. The instructor felt that the amount of time available simply was not sufficient for him "tc do an adequate job." For example, each student drafted interrogatories which the teacher went over in detail with the student. If depositions were called for, the student would draft them and the teacher would go over them. Invariably, most of the student work had to be substantially revised, virtually written from scratch, by the instructor. Many of the cases were open-ended and lasted long beyond the end of the semester, and the instructor ended up with a substantial number of cases. So much time was consumed in this process that it proved to be an excessive burden on the instructor. In his opinion, supervision suffered for like reasons. The examination given in the course was oral. It consisted of the students being quizzed on the cases they had handled.

Presently this individual is teaching a year long course consisting of 50 students who are handling two simulated cases. Here the instructor plays the role of client, witness, judge, jury, adversary, etc. The students interview him, negotiate with him, take his deposition, serve him with interrogatories to which he responds -- all the way to and through the trial. The "cases" were derived from the experience gained from supervising students handling actual cases, that is, by listing the issues that arose, the questions raised by the students, etc. While no live client is involved, the instructor feels that he can handle more students and give them more skills training than he could when he had to rely on the hit-and-miss live case for which he was counsel of record with all attendant responsibilities.

A fourth participant is presently running a field project in which a combined group of about 50 law and medical students are examining the "patient process" at a major hospital. The inquiry is an attempt to delineate all circumstances which affect the patient's well-being from the time he is recommended for admission through discharge. Interestingly enough, relations between the medical students and the law students began at a low ebb, as the former seemed convinced that the major emphasis of the project was to point out the shortcomings of the medical profession. As the project progressed, however, this fear was overcome, primarily as a result of all participants becoming engrossed in attempting to set forth systems affording greater protection to hospital patients -- which protections the project revealed were highly inadequate especially with regard to the poor.

Another workshop participant is running an empirical research project which has been awarded substantial funding. The area of inquiry is criminal law and the attempt is being made to test cause and effect type hypotheses. For example, what effect has Miranda had on police practices? (Answer: very little). Have recent Supreme Court decisions effectively increased legal protections for the poor? (Answer: not very much).

The sixth participant is engaged in an effort to improve the whole panoply of administrative services available in a highly impoverished rural area. This university center has provided a mechanism for students from a number of institutions of higher learning to intern in the geographical area and be awarded course credit. In addition to having immediate impact on the provision of administrative services with heavy emphasis on welfare services and especially aid for the disabled, more long term impact on the pre-professional training being offered by local colleges and high schools is being sought. It is hoped this will produce the requisite talent to aid in solving the problems of the area.

CLEPR is planning to hold two additional workshops this Spring.

TWO ADDITIONAL GRANTS MADE BY CLEPR

A grant of $25,000 to the UNIVERSITY OF CONNECTICUT SCHOOL OF LAW will enable the school between June 1, 1970 and May 31, 1971 to expand the legal clinic program now supported by a CLEPR grant of last year. This second grant brings the support to the University of Connecticut for clinical programs up to a total of $54,700 for two years. The ultimate size and scope of the U Conn program for 1970-71 will be determined by the decision of the New England Region of the Law Enforcement Assistance Administration which is being asked to support certain parts of the projected program.

Under the grant made, the following steps of progressive development in the clinical program would take place (adjustments would be made by agreement between CLEPR and the University of Connecticut depending on LEAA action):

1) The criminal program would be expanded from defense only to include three aspects: defense, prosecution, and corrections. Intern-supervisors would each head one of these areas.

2) A civil legal aid element would be added to the program. Students would handle a limited intake of clients and also concentrate on law reform in one field each year. A director of the civil legal clinic would be added to the faculty as a "first-class citizen" with rank of assistant professor. Two additional legal interns (lecturers in law) would be added for this civil program to assist the director as per the established pattern in the criminal program.

3) The University of Connecticut will take a number of measures to integrate the clinic approach into the general curriculum. Clinic staff will lend their help to a number of teachers desiring to heighten student interest in their courses through clinical work in particular fields: Law and Psychiatry; Advanced Family Seminar; and Advanced Corporation Seminar (help to black business enterprises).

In addition to the above, there will also be increased credit for clinical experience; creation of a special faculty committee on clinical legal education; and continued work with the Connecticut Bar Association on obtaining a state student practice rule.

A grant of $25,000 to NORTHEASTERN UNIVERSITY SCHOOL OF LAW will provide partial support of a faculty member who will broaden and review the cooperative work assignments of students in the public sector.

Northeastern University School of Law reopened in September, 1968 after having been closed for almost fifteen years. Less than a year later it received provisional accreditation from the American Bar Association. Northeastern University as a whole is truly a "unique" institution in an age when hyperbolic words have been depreciated by overuse. The entire university, including the law school, operates on the cooperative plan: In the first year each student attends classes full-time. After that (for four more years in college, for instance, and for three more years at law school) each student alternates between an academic quarter (twelve weeks) of full-time study and a work quarter (twelve weeks) of full-time employment for pay. In the case of the law school the placement is usually with a private law firm which in these times is quite willing to pay and have the opportunity to look over potential recruits. Each job placement is covered by two students in tandem so that a job is covered for the full year so far as the employer is concerned.

Dean O'Toole intends to work a basic reformation of the curriculum at Northeastern - building on the university's commitment to fieldwork in the so-called cooperative plan of education. He intends to change in the law school the present pattern of centrally arranged and unsupervised career-related placements (largely in private law firms able and willing to pay) to a clinical, supervised experience taking in the public sector; (Examples of these are the few public sector placements now held by Northeastern law students: working in a Puerto Rican ghetto of Boston for the Attorney General of Massachusetts; and in his office and a similar office in New Jersey on consumer fraud cases; and providing legal services in neighborhood law offices in Cambridge and in Boston.)

The grant made would assist Northeastern University School of Law over a two year period to add a professor who would expand placements in the public sector, and also

make a start at reviewing and generally supervising the field experience. In such placements, lawyer-client experience would be sought. For the time being the placements and experiences would be somewhat scattered, until enough paying placements could be worked out in a few places. The experiment would also help us to ascertain if the paying clinical experience is possible under law school supervision. This might have significant implications for all part-time legal education of the more traditional kind.

The new professor, whose title will be Cooperative Work Professor, will have full faculty status, a very light teaching load, and central responsibility for the classroom seminars during the academic quarters in which the students will discuss and learn more about their field experience in the prior fieldwork quarter. The professor would concentrate on placements in the public sector, mainly in the Greater Boston and Washington, D.C. areas; visit each student on the job at least twice during each quarter; confer also with the student's supervisor; and sift out those positions not of sufficient educational value. In effect he would also build a bank of public sector placements for successive student generations. He would also undertake to prepare teaching materials for the seminar.

APPLICATIONS TO CLEPR FOR SEPTEMBER 1971

In our next Newsletter we will carry an announcement and instructions concerning applications to CLEPR for funding of clinical legal education programs starting September 1971.

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COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

280 Park Avenue • New York, N.Y. 10017 • Phone (212) 697-6800

Vol. II, No. 7, February 1970

GUIDELINES FOR APPLICATIONS TO CLEPR

CLEPR invites applications for financial assistance starting September, 1971 for clinical legal education programs. All applications must be received by CLEPR on or before November 1, 1970. CLEPR requires seven copies of each application. The information which follows is to assist law schools in the preparation of applications to CLEPR.

Since funds requested of CLEPR have been far in excess of CLEPR's grantmaking capacity, we have had to reject applications received after the deadline. Try to get your applications to CLEPR earlier, if possible. It will be to your advantage. We shall announce later when the grants for 1971 will be made.

Our policies are stated in our Newsletters, particularly Vol. I, No. 4 (May 1969) and those immediately following: Vol. II, Nos. 1, 2, 3, 4. Please read them all carefully. Together they are intended to deliver our message. If you have any questions, after reading these Newsletters, please contact us. If you have lost or misplaced any of the Newsletters, we shall send another copy, as long as our supply holds out. It is limited. We shall try to help in any way we can by way of advice. We provide no financial assistance for the planning of programs or the drafting of applications.

Law schools which have CLEPR grants or which receive CLEPR grants in the future cannot expect a refunding for the same program. We have tried in the past and shall continue in the future to predicate all grants on a schedule of support which makes it possible for grantees to continue to sustain a project without further CLEPR support. This will be all the more important in the next few years, because the amount available for CLEPR grants annually probably will be decreased by approximately 25%. This is due to commitments by CLEPR for 1969 and 1970 which exceed the average annual commitment originally planned. Be realistic in the amount requested. CLEPR's average grant has been about $50,000 to cover two to three years. It may be smaller in the future.

CLEPR will give preferential consideration to certain kinds of applications. First are those which include preparatory courses and training directly relevant to actual clinical experience in the lawyer-client relationship. These may be substantive or mock practice offerings, or both, but they should be more than a re-offering or introduction of general courses in poverty law, juvenile law, etc., desirable as these are in the law school curriculum. Second are those applications which involve clinical work in a legal service program in jail or prison. This is an area which offers outstanding opportunities for the classical clinical experience; renders an important personal and social service; and holds

promise of contributing to the rehabilitation of prisoners and the reform of the correctional system. CLEPR is cooperating in this area with the Council on Law-Related Studies, which may be able to help with the research aspects of some of these projects.

In your application, the first section (Section A) should be a brief summary of basic information for each proposal, set forth according to the numbered items below:

1. Name of school
2. Total cost of project
   Funds sought from CLEPR
   Funds to be provided by school
   Funds provided by other sources
3. Starting and termination dates of grant and amount of funds to be expended annually; classify annual expenditures as per question 2
4. Name of project director and his telephone number
5. Project director's status on faculty; state whether eligible for tenure
6. Will the project director work for a calendar year or an academic year? What per cent of the project director's time will be spent on the program? Other time commitments?
7. Names, descriptions, and time percentages (as per question 6) of others involved in supervision of students in the program
8. How much teaching credit will each faculty member receive?
9. Is the school on a semester or quarter system?
10. How many students will participate for credit per semester (or per quarter) in the proposed program; what year in school will these students be; how many semesters(or quarters) will each student be in the program; what is the maximum number of semesters (or quarters) each student can participate for credit; and what is the total number of different students who are to participate in the program over the life of the grant?
11. Is enrollment in this program required for graduation?
12. State any prerequisites for student participation in the proposed program; and whether any preparatory course or orientation is offered or required of students enrolled in the clinical program; if so, list here and describe in detail in Section B.
13. Set forth other classroom elements involved; the hours of credit awarded; what is needed to satisfy the course requirement; the grading system used; whether the course is new; who will teach the course; and how long the course will run.
14. Set forth teaching materials to be used; enclose materials, if other than generally available.
15. Will students enrolled in the proposed program have course adjustments to free days or weeks solely for clinical work?
16. How many hours a week will the students devote to fieldwork?
17. How much credit is to be awarded over what period of time for student fieldwork?
18. Set forth the area(s) of the law that the program will concern itself with (e.g., welfare law, defender, corrections, general legal aid, etc).
19. Is there a student practice rule in force in your jurisdiction; if so, furnish text

and citation.

20. Will students receive compensation from any source for their clinical work; if so, describe.
21. List other clinical activities presently conducted at the school. How much credit is awarded for each? What is the maximum number of clinical hours that a student can count toward satisfaction of his graduation requirements?
22. With respect to each faculty member participating in other clinical programs, respond to questions 4, 5 and 6.
23. Has the faculty approved this application?
24. What kind of financial commitment is the school undertaking to continue the program after grant funds are expended, if the grant is awarded?
25. Has the university administration approved this application?
26. If any agencies outside the law school are involved, have they given their consent?

Section B should be a descriptive exposition of the proposal and its history, including additional details as necessary on items in Section A as well as information with respect to the items following: (Be sure to include a detailed budget with explanation and justification.) 1) Background of the project director; 2) Actual student contact with clients in the conduct of clinical work; 3) The specific junctures of student practice at which supervision will be applied; 4) The connection, if any, between the student clinical activity and the student practice rule, if one exists. (If no student practice rule exists, describe any steps being taken to have put into effect.); 5) How classroom and clinical components are tied together; 6) What the school intends to do through this proposed program that is additional to what is already being done, and how this proposed program fits into the school's educational program; 7) The faculty's position in re clinical education. (If a regular or special faculty committee exists to deal with clinical programs, describe it and include its findings, recommendations, etc.)

As a guide for Section B, we reprint (without the pertinent budget) an application from the University of Connecticut we have recently funded. Not all the elements required to be covered by this announcement are included, because the application was prepared at an earlier date. The content shows: 1) an understanding of the elements of clinical legal education which CLEPR considers essential; 2) the way clinical legal education experiments can be moved along by a building block process, taking advantage of experiences and doing the next logical thing or things; 3) the provision of good supervision of the clinical work and provision of classroom teaching as an integral part of the total experience; 4) imaginative, creative, and specific plans to experiment with clinical elements in other law school courses which lend themselves to such efforts; 5) a concern for, and work with, important related problems, such as authorization of student practice in the jurisdiction; 6) clear evidence of a serious commitment to finding the full potential of clinical legal education, including a willingness to grant "first-class citizenship" on the faculty to the clinical teachers, and ample credit to the students. CLEPR assumes responsibility for editing the text because of space limitations.

UNIVERSITY OF CONNECTICUT, APPLICATION FOR CLINIC FUNDING FOR ACADEMIC 1970 - 1971

I. Introduction

In March 1969, CLEPR approved a grant of $29,700 to the University of Connecticut School of Law to support the creation of a credit program in Legal Clinic during academic 1969-70. Aided by University matching funds, the CLEPR award permitted the Law School to employ three Lecturers-in-Law (Legal Interns) to assist the Clinic Director in the development of a closely supervised clinical experience for more than 30 second and third year law students. The program was restricted to clinical training in criminal law because of the lack of faculty personnel to supervise a civil division.

The Interns completed a six week training session in Connecticut criminal procedure prior to their admission to the State bar in mid-September. Since then they have accepted 54 cases involving the defense of indigents accused of criminal offenses in both State and Federal courts. In each case, two students have been assigned to assist them with the investigation, research and courtroom presentation. Although Connecticut students are not yet permitted to personally represent clients, the present program allows them to otherwise actively participate in the decision-making process. In a pyramidal supervision system analagous to the clinical procedure of medical schools, the Clinic Director is involved in each case as an aggressive advisor and accompanies the intern-student team during every important courtroom appearance.

The Clinic staff complements the criminal defense cases with a two-hour seminar session every other week. The classroom phase of the program attempts to bind together the clinical experiences of all students and relate them to traditional legal materials. As a result of Professor Brickman's recent evaluation, the format has been altered so that many sessions will focus on in-depth analysis of one case, including all the motions, memoranda, and transcripts of court proceedings, in light of tactical, ethical and legal considerations.

II. 1970 - 71 Program Outline

A. Criminal Legal Clinic

A principal defect of the present criminal program is that the students are exposed to only one phase of the administration of criminal justice - the defense of one accused of crime.

To remedy this deficiency, it is proposed that next year's clinic be structured to include experience in prosecution and corrections law as well as criminal defense practice. Therefore, instead of three Interns acting as defenders, it is suggested that only one Intern provide defense services, while the other two concentrate on prosecutorial and correctional advocacy. The procedure in the defender phase would continue as at present and the other two would operate as follows:

a) Prosecution: One of the present Lecturers would be retained for a

second year and would serve as a Special Assistant Chief Prosecutor of the Connecticut Circuit Court, and would represent the State in the trial and appeal of organized crime (gambling and narcotics) cases as well as general criminal offenses. Organized crime matters have been selected because they usually present intricate exclusionary rule problems and highlight the confrontation between the exercise of the police power and the right to individual freedom. The students would be assigned to assist the Intern in the same manner as in criminal defense cases and as soon after the arrest as possible.

b) Corrections: Presently the Clinic students are representing inmates of the Connecticut State Prison who request aid in habeas corpus matters. Moreover, the Law School is now discussing with the Connecticut Parole Board and the School of Social Work an experiment involving law students assisting inmates appearing before the Board for release. These discussions will probably soon be expanded to include the possibility of student representation of prisoners at the parole revocation hearing or acting as assistants to the Board in investigating factual issues in revocation cases.

To fully develop the lawyer's role as advocate in the corrections system, it is proposed that a present Intern be retained for a second year to direct a corrections division. In addition to activities in the above areas, the Intern will concentrate on widening services to include inmates' civil problems (e. g., divorce, custody, contracts). More important, the Intern and students will explore whether the advocate can inject himself into the internal procedure of the penal institution and assist the inmate during other highly critical proceedings (e. g., disciplinary and misconduct trials, classification decisions).

It is hoped that CLEPR will fund the Corrections Lecturer and that the New England Region of the Law Enforcement Assistance Administration will financially support the other two positions. The criminal program will continue to maintain a classroom component. Moreover, the faculty will be petitioned to expand the credit allocation to four per year.

B. Civil Legal Clinic

The civil phase of the Clinic program will attempt to meld a traditional legal service approach with a law reform model. Operating from the Law School's office at the SAND Center in the North End of Hartford, and in conjunction with the O.E.O.-funded Neighborhood Legal Services, the program will accept a limited number of indigent clients needing general legal assistance. In this way, the students will be provided with an overview of the legal problems confronting poverty lawyers. However, in order that students will also be exposed to the professional challenge of high level litigation, the program will also concentrate on one area of the civil law for the entire year. Through group representation, test cases and legislative drafting and lobbying, the Clinic will seek to alter institutional structures and judicial procedures in an expecially worthwhile field. Possible areas presently under consideration include public housing, welfare law and urban health law and related services.

Utilizing the Intern approach that has proved itself successful in the Criminal Clinic, and which is more fully described in last year's application to CLEPR, the civil program will

be supervised by a Director and two Lecturers-in-Law (Legal Interns). Beyond continuing the Intern approach, the details of the program remain flexible to permit the new Director the full range of alternative activities.

The Law School is actively recruiting candidates for the position of Director of Civil Legal Clinic. As an assistant professor of Law, with full faculty status and "first-class citizenship", the Civil Director would spend one-half of his time in clinic work and the rest in conventional classroom teaching, e. g., in Urban Law.

Candidates for Internships have been interviewed. The Law School is hopeful that CLEPR will fund one of the Civil Interns while the University finances the other.

III. Integration of the Clinical Approach into General Curriculum

The clinic program described above has the virtue and the vice of being within the general pattern of other clinical experiments being conducted in a number of law schools. Although Connecticut appears to be unique in using Interns as teaching supervisors, it follows the approach of other schools in segregating the clinic from the mainstream of legal education. Thus, the clinic has become a separate and distinct course at most law schools (including Connecticut) instead of the clinic method becoming an essential teaching tool in many traditional law courses. As a result, the clinic staff has been set aside to supervise its own narrow speciality rather then being employed as an immediate available resource by the rest of the teaching staff.

The Law School, and especially its present clinical staff, hopes to test the validity of this trend toward separatism, and experiment with the opposite approach. Implementation of the instant proposal would provide the necessary staff to further develop the first of the following items and to guarantee a sound evaluation of the other two.

A. Utilization of the Clinic Method

Those involved in clinical legal education constantly speak of the "feedback" and "enrichment" that the clinic will furnish to the rest of the curriculum. Assuming the validity of these statements in the absence of available and measurable evidence, it is suggested that the "feedback" and enrichment" would be more meaningful and apparent if the clinic experience were tailored to meet the narrow educational needs of appropriate law school courses. To achieve this result, it is not proposed that each law professor need become a clinician. Rather, it is urged that the clinic staff lend its expertise to a number of teachers who desire to heighten student interest through the clinic method. In effect, clinic personnel will be brought in to team teach the traditional course with the regular professor.

The clinic Director has already taken steps to integrate the clinic method into existing traditional courses. The following illustrates the progress to date.

1. Law and Psychiatry

A widely adopted course, Law and Psychiatry has oftentimes employed field research

methods (defined as clinical by many), but has less often used adversary techniques. Professor Joseph LaPlante's second semester (1969-70) course will hopefully utilize the latter as a pedagogical device. Students in his course will become part of the staff of a newly formed legal service office at the State-operated Connecticut Valley Mental Hospital. They will be assigned to represent one or two patients needing legal assistance in such matters as illegal commitment, family law and probate administration. The student case work will be supervised jointly by Legal Service and Clinic staff attorneys. Particular cases may highlight class discussion and students will be permitted to develop seminar papers around their case experiences.

2. Advanced Family Law Seminar

Professor Francis Cady's offering during the first semester of next year will provide the students with the opportunity to test their classroom training in a clinic setting. The clinic staff will direct a limited number of family law and juvenile court cases to the seminar students and will maintain immediate supervision over their outside endeavors. Clinic personnel will attend seminar sessions at the invitation of Professor Cady in order that particular case developments are fully explained. Although the students will not receive separate clinic credit, they will be exposed to the clinic teaching method.

3. Advanced Corporations Seminar

Professor Lester Snyder intends to have his second semester (1969-70) students form a "law firm" to advise members of the Ebony Business League of Hartford on legal matters dealing with incorporation, taxation, management and contracts. The Clinic staff has offered its services as attorneys of record in all legal proceedings that are contemplated.

B. Faculty Committee on Clinical Education

During this time of "soft money" (provided by CLEPR, LEAA, etc.), it is not too difficult to obtain the approval of a law faculty for an experiment in clinical education, especially when students are clamoring for "educational relevance." However, before the same Faculty will commit itself and the school's financial resources to long range clinical involvement, it must decide that it has inherent educational worth. Although the experience at other institutions may have some probative value, a faculty will have to be assured that the experiment has been and will continue to be successful at its own school. A one year trial involving thirty-odd students may not be enough to establish the necessary educational merit.

The execution of the proposal program would provide the extensive evidence of clinical education upon which the Law School faculty could make a rational decision. Moreover, since the school's budget for the 1971-73 biennium will be drafted within the next calendar year, it is important that the faculty be prepared to make that decision before this budget is submitted to the University administration and the State legislature. In the hope that the Law School will be able to implement the proposed program during the coming academic year, the Clinic Director is calling for the creation of a Special Committee on Clinical Education at the December meeting of the faculty.

C. Bar Committee on Student Practice Rule

Before the Connecticut Supreme Court can be expected to adopt a student practice rule, it will have to be assured that law students will be able to render competent and effective legal assistance and that the program will have a tested plan of adequate supervision. The Court will rely heavily on the recommendation of the Connecticut Bar Association. The Council of the Bar, upon the urging of the Clinic Director, has recently created a Special Committee on Student Practice under the chairmanship of Carl W. Nielsen, Esquire, Vice-President of the Association and a member of the University's Board of Trustees. The Council plans to appoint members of the bench, bar and law faculty as well as law students to serve on the Committee. Plans call for a final report to be submitted in advance of the December, 1970 meeting of the Supreme Court set aside to consider rule changes. The continuation of a broad based, closely supervised program of clinical education at the Law School would do much to insure a favorable report by the Committee.

CLEPR ANNOUNCES PERSONNEL REFERENCE SERVICE FOR LAW SCHOOLS

CLEPR has instituted a Reference Service for Clinical Legal Education Positions. The service maintains a register of applicants for clinical positions. Persons seeking law school positions with clinical legal education programs may participate in the Service by submitting resumes (10 copies) and informing CLEPR on the first of each month of their current employment status. Letters of support written on behalf of an applicant would also be included in his file.

Upon request from a law school CLEPR will mail a copy of resumes currently available with any supporting letters for each applicant who has kept his employment status current. In doing so CLEPR is not recommending particular applicants.

For the present no charge is made for the service to either applicants or law schools. For additional information write CLEPR.

ERRATA - Vol. II, No. 5, January 1970

Page One:
1. The 13 CLEPR grants announced total $761,000.
2. $80,000 is the amount of the grant to Case Western Reserve University School of Law.

Page Eight (at the bottom):
The grantee school is University of California School of Law, Los Angeles.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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March, 1970

MODEL PROSECUTOR-LAW STUDENT CLINICAL PROGRAMS

In our Special Announcement of last week we mentioned that we would follow up with a memorandum in which we would provide additional information concerning the Prosecutor-Law Student Clinical Programs.

There are several prerequisites to eligibility for funding:

1. Students must receive academic credit for their work. There is no set amount of credit required. We would prefer, however, proposals which were comprehensive enough to justify a full semester's credit. At the minimum, we require that credit awarded be commensurate with the number of hours spent by the students.

2. Proposals must specify that the program will be supervised by a member of the law school faculty. This, of course, is in addition to the supervision provided by the prosecutor's office, which should also be described. While not required, we would prefer that the supervising faculty member have prior experience or considerable familiarity with the operations of the prosecutor's office. We would expect that the faculty supervisor would conduct a seminar concerning the prosecutorial function, and we would prefer that the seminar be created, or restructured if it already exists, to assure a direct relation to the work in which the students are engaged.

3. The students must be engaged in providing direct legal services for the prosecutor's office. Proposals which would involve students predominantly in emprical research tasks, or in appellate-type legal research will not be acceptable, since this type of work can readily be made available in a non-clinical setting.

The fundamental purposes of the Prosecutor-Law Student Clinical Program are to expose law students to the practices, and problems of the prosecutor's office, to train them in the skills necessary to engage in this phase of legal work, and to explore the ways in which law students can provide a useful resource for prosecutors. Clearly, there are many possible approaches to these goals, and, therefore, we shall not go beyond the aforementioned prerequisites in this memorandum.

It does appear to be appropriate, however, to make some comment about certain features of

such a program which we believe are desirable.

1. We would prefer programs in which law students could themselves engage in courtroom work. Ideally, the student would be able to conduct trials under appropriate supervision. Appellate practice would also offer a unique educational experience, as would the opportunity to argue motions or conduct hearings if trial experience could not be obtained.

2. Other areas worthy of attention are those where students are engaged in providing or experimenting with a new service for the prosecutor's office (e.g., serving as the prosecutor's liaison at police precincts, where no such liaison now exists.

3. We noted above that we would prefer full time clinical programs. One important reason for this is that if the student is engaged in significant courtroom work he will need the kind of time flexibility which this type of law practice demands. We suggest that if a full time program is not possible, it would be preferable to allow the student to concentrate his clinical hours in blocks of time. Thus, in a recent experiment students committed themselves to 30-40 hours per week for two or three weeks, during which time they were involved with one or two felony trials.

4. One other suggestion which some might find useful concerns summer programs in prosecutor's offices. We do not expect to support summer programs per se. But no doubt many students who are already involved in them would be interested in continuing their relationship in a clinical program. It would seem highly desirable to add an academic year clinical program to a summer program, so that the extensive orientation which students receive during the summer could be put to use in more complex legal work during the academic year.

The list directly above is merely suggestive. It is intended to express, however, our strong feeling that efforts should be made to avoid having law students serve in some clerical function for the prosecutor, or do no more than replace in a relatively unimportant job an assistant district attorney who can thereby move on to better things. It would not, for example, appear to be appropriate to have law students engaged solely in keeping track of the prosecutor's calendar in an arraignment court; nor would it be appropriate to have them assigned only to responding to citizens' complaints. These types of assignment may well be useful as part of the student's orientation to the office, but should lead into the assumption by the student of the lawyer's larger role in the prosecutor's office which is so important in the administration of criminal justice.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. II, No. 8, March 1970

SIXTEEN NEW GRANTS ANNOUNCED BY CLEPR ILLUSTRATE CURRENT TRENDS IN CLINICAL LEGAL EDUCATION

CLEPR has awarded $441,753 in grants for sixteen programs in clinical legal education. Law schools at ARIZONA, BOSTON UNIVERSITY, SUNY at BUFFALO, CATHOLIC, CINCINNATI, DICKINSON, HARVARD, NEW MEXICO, NORTHWESTERN, OREGON, PUERTO RICO, ST. LOUIS, SOUTH CAROLINA, TEXAS SOUTHERN, WASHBURN and WYOMING will direct these projects.

The total number of grants for starts in 1970 now totals 31, and the total amount committed $1,252,753. Only a few more grants will be made for 1970 programs. These will be announced at a later date.

With these grants clinical programs will be inaugurated in schools from Oregon to Puerto Rico, Chicago to Texas and many points in between. Interest in the clinical approach is not an East coast, West coast or mid-American phenomenon. More than in previously announced grants, a wide geographical spread is indicated. We note, however, the receipt of fewer proposals from southeastern schools. One result is that among the new grants only South Carolina is in this geographic area, although CLEPR has previously funded programs at Duke and Miami. CLEPR would welcome more applications from this part of the country.

Interest in clinical work is not confined to schools of a particular size or character. While a number of CLEPR grants have gone to large schools or national schools, many of the schools included are small and can be characterized as regional or local schools drawing a large percentage of their student body from their own area. Since most graduates remain there, these schools have important impact on the administration of justice at the local, county and state level. Alumni form a reservoir of talent for - and over the years have established an impressive record of work in - public service. Young lawyers trained in clinical programs and thus exposed to the problems and procedures of the particular jurisdiction are in a position to operate immediately and directly in the administration of justice, as well as to be aware of where improvements might be made.

CLEPR notes a trend to make clinical programs required courses within the curriculum. New Mexico and Texas Southern take the overall position that the clinical method provides a valuable educational experience for all students. Puerto Rico, with a long history of clinical involvement, feels the worth of the programs has been proved and therefore they should be mandatory. South Carolina, speaking from a different position, is of the opinion

that clinical programs are still experimental and therefore still require evaluation as to their worth. They believe, however, that in order to be valid these assessments should be based on total participation.

Perhaps the most obvious trend is that toward expansion; expansion of number of programs, expansion of number of students involved, expansion of credit awarded. Schools that had no programs now have 2; schools that had 2 programs now have 5; schools that previously offered 5 now offer 7. This growth indicates that clinical programs are keeping pace with, and in some instances moving ahead of, the overall expansion of law schools. With so many new programs, student involvement can move from a few to a whole senior class, from third-year students only to inclusion of second year students.

Credit expansion is particularly evident at Northwestern - 3 to 8, and Puerto Rico - 1 to 3.

The promulgation of student practice rules in many states allows the establishment of new kinds of programs and the addition of litigative work to established ones. Complete programs in the criminal area and in the corrections area can be fashioned with the advent of these rules which allow student representation of clients in court under supervision. Four of the new grants will support programs in these areas and CLEPR would welcome applications for more.

Schools are beginning to face up to the process for certifying students under student practice rules. Northwestern, for example, has set standards requiring certain preparatory courses and experiences. Clinical legal education should benefit from this insistence upon student preparedness for clinical work.

With the growth in the number of clinical courses offered, there is a concomitant growth of specialization of courses. At several schools the potpourri of cases at a legal aid clinic is divided and students may choose a particular area of interest - at Puerto Rico, juvenile delinquency, labor, social security, adoption and inheritance, bankruptcy; at Arizona, 5 clinical offerings from which students may select. Such specialization may go far toward solving problems that many have encountered in structuring a classroom component related to the clinical work. With the cases handled by the students limited to one area, integration and relationship of field work and class work are easier to effect and maintain.

Not only are new clinical programs expanding in number and diversifying in content, but the clinical method is being more widely used in already existing traditional courses. At Arizona, Oregon, Puerto Rico, St. Louis, faculty members other than the clinical professor or director are using the clinical method as a teaching tool to bring interest and relevance to traditional courses. For instance, a professor in the juvenile or family law area begins to have his students spend some of their time outside the classroom working with clients. This has the advantage of allowing professors to stay in their chosen field and adds another dimension to the values of specialization mentioned above.

Without exhausting the list of interesting features evident in the grants we note one more trend: the use of clinicians as part of the supervisory team, to assure responsibility for service to the client and to assure fuller supervision of the law student in the clinic. These

clinicians are beginning to appear as part of a team consisting of the teacher in the classroom and the clinicians working in the clinic. Each assumes the responsibility for his part of the process, but they work and visit together as much as possible.

We bring these observations of our own to the attention of our readers since we find that these overall trends are extremely valuable to us in our program planning, and we hope they will be helpful to others in legal education.

A list of the 16 grants and a brief description of each follows.

The UNIVERSITY OF ARIZONA COLLEGE OF LAW has received a $48,000 CLEPR grant to be used over three years beginning September 1970, to hire two Teaching Associates who will assume responsibility for service to clients and directly supervise student field work. The Teaching Associates will supervise the clinical work for two courses whose two professors will develop and teach the classroom components accompanying the clinical programs involved. Heretofore the two professors have been too heavily burdened by the full supervision, classroom component, and other teaching duties. If successful, this experiment will serve as a model for Arizona and other schools whose clinical professors have traditionally been torn by the conflicting demands of providing completely adequate field supervision and classroom instruction at the same time.

BOSTON UNIVERSITY SCHOOL OF LAW has received a $15,000 CLEPR grant, to be used on a declining basis from September 1970 to June 1972, to help support the director of a rapidly growing clinical program in civil matters. Improvements in the program were started last fall. With this grant helping to assure supervision on a permanent basis, three credits will be granted to students for field work at the neighborhood law offices of the Boston Legal Assistance Program (BLAP), the city's OEO legal services program, plus enrollment in a closely related course on poverty law.

A $20,000 CLEPR grant to the STATE UNIVERSITY OF NEW YORK AT BUFFALO (Faculty of Law and Jurisprudence) will be used between September 1970 and June 1972 to partially support a full-time director of clinical programs who will supervise and expand the present program, and help make clinical legal education an integral part of the curriculum of a law school apparently destined for extraordinary growth in the near future.

The school's current Legal Aid Clinic is a three-credit elective for 25 second and third-year students, who, in addition to taking a related seminar, spend 15 hours a week working in the offices and divisions of the Legal Aid Bureau of Buffalo. Students are directly supervised by the attorney in charge of each office or division, with limited supervision provided by the part-time program director, who is an employee of the Legal Aid Bureau. With the help of the CLEPR grant, the program director, who now works for the Legal Aid Bureau will become a full-time faculty member in the law school and the full-time director of the clinical program.

CLEPR has awarded a $19,500 grant to CATHOLIC UNIVERSITY OF AMERICA SCHOOL OF LAW, for the year beginning September 1, 1970, to pay the salary of a full-time director for the school's legal aid clinic. The school will thereafter be responsible for this professor-director's salary. Without this assistance, the clinic would have to close, despite

the dean's support and growing commitment by the school to clinical legal education.

The professor-director will be a regular faculty member whose primary teaching responsibility will be with the clinic's "senior associates" or third-year students. He will closely supervise their clinical work and conduct a related seminar, both of which will carry credit for the first time. He will also supervise the work of second-year students who will be directly responsible to the senior associates. In teaching and supervising, the director will receive assistance from interested faculty members who teach landlord-tenant law, consumer law, juvenile and criminal law, social welfare and bankruptcy.

A clinical program in both the criminal and civil fields will be partially supported by a $37,000 CLEPR grant, to be used from July 1970 through August 1972 by the UNIVERSITY OF CINCINNATI COLLEGE OF LAW. The program will involve nearly 40% of the senior class, or 30 out of 80 students, and will operate under Ohio's new student practice rule.

Under the supervision of a full-time clinical instructor for the clinical work, and two faculty members giving part of their time for the related classwork, both a criminal law and civil law clinic will be offered during the fall semester. Each clinic will involve ten seniors and will carry three credits. The criminal law clinic will be offered again in the spring. The civil law clinic will not, in order to allow those enrolled in the fall to complete their cases.

In the criminal law clinic, supervised students will represent indigents in cases in the Hamilton County Municipal Court (misdemeanants, and preliminary hearings on felony charges.) Civil cases would be selected from the workload of the Legal Aid Society. In addition, students will take a classroom course, consisting of two hours per week, and will also be required to do a research report with recommendations for reform, on some important aspect of the administration of justice.

A CLEPR grant of $20,000 will enable The DICKINSON SCHOOL OF LAW, an independent law school in Carlisle, Pennsylvania, to build a clinical professor's position and salary into its budget over two years beginning September 1, 1970.

Dickinson, with a student body of three hundred, is located in rural Cumberland County, adjoining Dauphin County, site of the state capital. It exemplifies the local or regional school which can be even more important in the administration of justice in its area than national schools of greater prestige.

At present, 30 second and third-year students work as volunteers in the Legal Aid office which has been organized by students. As a result of the CLEPR grant and approval of a student practice rule, work in the Legal Aid Society will now carry two credits per semester when taken in conjunction with a course on problems of the poor under the present legal system. The clinical professor, a regular faculty member, will teach this course and one other and will directly supervise clinic work. In addition, the school plans to offer sequential legal clinic courses so that students may continue their clinic work for additional credit each semester.

A CLEPR grant of $3,333 will help to continue a clinical program involving student prosecu-

tors at the HARVARD UNIVERSITY LAW SCHOOL during the academic year 1970-71.

This program has been in operation since 1966 when the student practice rule in Massachusetts was amended to enable third-year students to appear on behalf of the prosecution as well as in defense of indigent clients in all District Court criminal actions including six-man jury trials, provided that the case is supervised by a member of the bar.

An $18,000 CLEPR grant for one year beginning September 1970 will enable the UNIVERSITY OF NEW MEXICO SCHOOL OF LAW to begin an expanded clinical legal education program, supervised full-time by a new faculty member.

For the past eleven years, seniors interested in clinical work have taken part in an only partially supervised, non-credit program with the local Legal Aid Society.

In its expanded program, the school will offer a number of clinical courses to third-year students who will be required to elect one of them for credit. The major program will involve representation of indigent campus workers and students through a Law School Legal Aid Office to be located in the new law school building on campus. Other projects will entail work in the prosecutor's office, State Penitentiary at Santa Fe, magistrate's courts, and probation and juvenile courts. Students will also assist attorneys with assigned criminal cases.

A $33,000 grant from CLEPR to NORTHWESTERN UNIVERSITY SCHOOL OF LAW, for one year beginning September 1, 1970, will help support the school's clinical program conducted through the Northwestern Legal Assistance Clinic.

The grant will supplement a previous CLEPR grant of $75,000 used to create this unique clinic, which operates in conjunction with the social work staff of the medical and dental schools' clinics nearby. With the promulgation of a student practice rule last year, the clinic and clinical legal education in general at Northwestern have become important parts of the curriculum. The school recently authorized senior students to earn up to eight credits toward their J. D. as legal clinic participants under the new Illinois student practice rule.

To receive certification from the Dean under the rule, seniors must have completed work in civil procedure, evidence, professional responsibility and interviewing and counseling. They must also have had 40 hours of work in providing legal services to indigents or in a legal office of State or Federal government, and they must have observed three complete trials of different kinds.

The UNIVERSITY OF OREGON SCHOOL OF LAW has received a $30,000 CLEPR grant to help support its clinical legal education program between September 1970 and June 1972.

The grant will enable a professor to spend practically full time on supervising the older clinical program with the Lane County Legal Aid Office, and on coordinating new clinical programs to be run by other faculty members, such as the recently inaugurated prisoner assistance program and welfare assistance program, both outgrowths of existing seminars.

At present, about ten students work approximately 10 hours a week for no credit at the Legal Aid Office where they do not receive adequate supervision. Second and third-year students in the new program will spend 10 to 15 hours per week at the clinic for two hours of credit per semester. They will be permitted to enroll in the clinical program for two out of the school's three semesters per year. The professor in charge of the program will develop and conduct an orientation course, supervise field work, coordinate student work with that of others in the clinic, and conduct a seminar to consider the broader implications of the clinic experience.

A $24,000 CLEPR grant to the UNIVERSITY OF PUERTO RICO COLLEGE OF LAW for two years beginning July 1, 1970, will help support two clinical legal education programs in corrections, until the school can provide fully for them in its own budget.

The law school has built up a long-standing involvement in clinical education. Students receive credit and faculty receive tenure; student-teacher ratio is excellent and supervision constant; traditional courses are prerequisites for third-year required clinical courses; and faculty acceptance of the clinical method is evidenced throughout the curriculum.

The CLEPR grant will help finance an existing adult prison program and inaugurate a similar program for juveniles. Each program will involve 16 students who will spend about eight hours a week interviewing clients and servicing their legal needs and those of their families. Students will also assist at court appearances but may not, in the absence of a student practice rule, represent clients in court.

The ST. LOUIS UNIVERSITY SCHOOL OF LAW has been awarded a $30,000 CLEPR grant to be used for one year beginning September 1970 for partial support of a clinical legal education program utilizing a team teaching approach.

The team teaching approach, first developed in the school's Juvenile Delinquency Clinic program, involves three key men. A regular, full-time professor directs the clinical course, teaching its theoretical content and assisting in case selection, student supervision and program evaluation. A clinical professor supervises field work (in addition to the supervision given by the practicing attorney), chooses cases and selects practicing attorneys to work with students. The practicing attorney or clinical instructor is responsible to clients, tries cases where necessary, and also assists in case selection and program evaluation.

The team approach will be extended to clinical courses in poverty law, criminal law and commercial practice. Approximately 60 second and third-year students will take part in these programs each semester. The poverty program will be a continuation of the school's legal aid clinic run in cooperation with the Legal Aid Society of St. Louis, an OEO program.

CLEPR has awarded a $20,000 grant to the UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW to be used between September 1970 and June 1973 to help provide additional faculty supervision for an expanding clinical legal education program.

Under a previous CLEPR grant, South Carolina incorporated into its curriculum a

Corrections Clinic and a Clinic on the Administration of Juvenile Law. Each clinic carries three credits per semester and involves 10 to 15 hours of field work per week plus a weekly two-hour classroom session.

Partly because of the success of these programs, the faculty has now made participation in a clinical program mandatory for all third-year students. Under the new grant, the school will hire two new professors and will add to the third-year curriculum two one-semester clinical programs. One clinic will provide legal services to students and will involve prosecution and defense of students before the university's disciplinary board. Participants in the second clinic program will represent recipients of and applicants for welfare at "fair hearings."

A $50,000 CLEPR grant will provide partial support for a legal clinic program run by the TEXAS SOUTHERN UNIVERSITY SCHOOL OF LAW. The funds will be used between September 1970 and June 1973 to help pay the salaries of a professor, who will spend most of his time directing the clinical program, and an attorney who will work full time in the clinic, thus providing necessary supervision for an expanding student body.

The school's legal aid clinic is a one-credit required course for all seniors. Present caseload entails primarily civil matters, but next fall will see the introduction of criminal work which will provide both a needed service and broader experience for student participants. Students will spend a minimum of four hours per week in the clinic, working under close supervision.

WASHBURN UNIVERSITY SCHOOL OF LAW has received a $35,500 CLEPR grant to hire a full-time director for its clinical programs in Juvenile Court and Legal Aid. The grant will be used over three years beginning July 1, 1970.

With the recent passage of a student practice rule, third-year students will be able to represent clients in both local and district courts - a fact which has influenced Washburn to plan expansion of existing programs, to provide a director to supervise clinical activity, and to award credit for clinical participation by third-year students for the first time.

At present, students are involved on a volunteer, non-credit basis in two clinical programs. In the Juvenile Court Program, students act as probation officers under the direction of a faculty member and the supervision of two full-time probation officers. They also attend related weekly seminars. In the Legal Aid Program, students work as judge's clerks, assist in prosecutions and provide legal aid to indigents under the partial supervision of attorneys from the Topeka Legal Aid Society.

The addition to the faculty of the new full-time clinical director will result in new credit clinical offerings for third-year students in two areas: prosecution and defense of juvenile cases, and legal services to indigents in civil matters. The director will also oversee the continuing non-credit work of second year students.

The UNIVERSITY OF WYOMING COLLEGE OF LAW has received a $38,420 CLEPR grant to be used over two years beginning September 1, 1970 for partial support of a clinical program.

Partially because of the existence of a student practice rule, the school has maintained an active clinical program including the Wyoming Defender Aid Program for indigents, a prosecuting attorney assistance program, one of the country's first student legal assistance prison projects, and limited student participation in the OEO legal services offices in Cheyenne. None of these programs has carried credit.

Under the new grant, the law school will open a Legal Aid Office in downtown Laramie to handle the legal problems of the poor of Albany County. In addition to dealing with civil problems, students will defend persons accused of misdemeanors. Furthermore, as a result of this program and the probability of more contested cases, the County and City attorneys will need increased student assistance, and the school hopes to arrange for defender and prosecutor interns to exchange places at some point during the year.

About 25 students, or 90% of the senior class, will take part in the clinic program, working in both the legal aid and criminal defense aspects. Their work at the Legal Aid Office will be directly supervised by the program's director who will also hold individual and group conferences and seminars. An Associate Director will be primarily responsible for criminal work. To assure the supervisory coverage required by the student practice rule, attorneys will be employed to supervise students who are trying cases in court. Each fall, students in the clinical program will be required to take a two-hour poverty law course emphasizing matters affecting the rural poor. In addition, two hours of credit per semester will be given for clinical participation.

TEACHING MATERIALS NO LONGER AVAILABLE

CLEPR regrets to announce that the supply of teaching materials listed in the April 1969 Newsletter is now exhausted.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. II, No. 9, April, 1970

REPORT ON THIRD CLEPR WORKSHOP ON CLINICAL EDUCATION

The third in a series of CLEPR workshops on clinical legal education was held at CLEPR's office on March 23 and 24, 1970. Participants in the two day conference included Dean Charles Ares of Arizona; Associate Dean Vincent Nathan of Toledo; Professors Kent Carlson of George Washington, Jim White of Michigan, and Nat Gozansky of Emory; and Morton Cohen, Director of the South Brooklyn Legal Services office. Professor Millard Ruud of Texas attended as an observer representing the Section of Legal Education and Admissions to the Bar of the American Bar Association.

Representing CLEPR was its president, William Pincus. The workshop was organized and chaired by Professor Lester Brickman who is spending the year with CLEPR while on leave of absence from the University of Toledo. The agenda for the workshop was drawn from a memorandum on clinical legal education that Professor Brickman prepared for the N.Y.U. Clinical Programs Committee.

The workshop participants reflected a wide range of background and experience of relevance to clinical legal education. Several participants are involved in faculty discussions about commitment to clinical programs. One of the participants had run a clinical program; one sits as chairman of the board of directors of a consortium-sponsored clinical program involving five law schools; and another had directed several clinical programs, including one where law students taught courses in high schools, in his capacity as director of a Legal Services office.

One of the participants is jointly engaged with a psychiatrist in teaching a Negotiations seminar. The students are given a problem and bargain against each other. If for example, it is a buyer/seller problem, then the "buyer" is told privately what he should pay and the "seller" is told privately what he should seek. Like duplicate bridge, the students are graded on their performance relative to each other. The negotiations are analyzed after the fact. In some cases, they are video taped and played back before the class; and in some other cases, the class observes through a one-way mirror. After several in the class have been through a negotiation problem, a live session is held in front of the class. On this occasion, knowledge of the "breaking points" and crucial junctures of give and take enables the class to see how one side or the other gains the upper hand through transferral of information. Or more simply put, he who lets the cat out of the bag first often comes in last. Students have gotten so emotionally involved in the negotiations that sometimes they will not speak to one another in the aftermath. Interestingly a norm tends to

build up as to when negotiators can lie and when they cannot - when puffing is proper and when it is sufficiently misleading as to be deemed an unacceptable standard of behavior.

Another of the participants has also experimented with the use of video tape as part of an experimental course in Interviewing and Counseling. The course was offered for three quarter hours of credit which experience showed severely understated the students' time commitment. Third year students were first instructed to read Harrop Freeman's Interviewing and Counseling casebook and then received orientation for several sessions. Some of these sessions were taught by Legal Services attorneys. A clinical psychologist participated and gave students an overview of various interviewing and counseling techniques developed by several disciplines. He also sought to gain some student introspection into personal interview styles and to point out the likely impact of these styles on clients. A social worker and a marriage counselor were brought in to indicate what their disciplines had to offer and to introduce the students to the supportive resources available in the community that clients could be referred to.

The interviews took place in a legal services office. Since the legal services program involved accepted clients on a walk-in basis, the undertaking was very susceptible to certain control problems. For example, if bad weather occurred on the afternoon scheduled for student interviews, the clients would not show up and students would simply do nothing for that afternoon. One suggestion made to combat this was that the initial interview be only for the purpose of establishing financial eligibility for the legal services and finding out whether there was any emergency involved in the client's problem. If not, an appointment could then be scheduled permitting student and client to get together at a specific time. It was indicated, however, that since great emphasis is usually placed on the initial contact with the client (from point of view of teaching interview technique and, especially, establishing lawyer-client rapport), the suggested system might be sacrificing some important opportunities.

The interviews took place in a room with a fixed camera unobtrusively placed. The teacher was in another room observing the interview on a small monitor attached to the equipment. This was done so that, if the student so mismanaged an interview or took actions based thereon that would have been injurious to the client, the teacher could then step in and save the situation.

The tape was played back in toto before the class and the several teachers. The focus of the discussion, in declining order of importance, was: (1) the interpersonal relationship between client and attorney; (2) the substantive law issues; and (3) professional responsibility issues. It was pointed out that much more in the way of teaching Professional Responsibility could be undertaken in this manner. The availability of proper resources could permit the preparation of a video tape casebook illustrating classic interview forms and techniques, psychological attitudes discernible from speech and behaviour patterns, client types, and professional responsibility issues. Commentary would be interlineated on the tapes.

Several of the items discussed at the workshop were elaborations of discussions at prior workshops. For example, it was again emphasized that in so far as the public and the profession's acceptance of clinical programs is concerned, even establishing the image of clinical programs as educational ventures would not suffice. Rather, the image would have to become a reality if clinical programs are to survive in the law school world. As pointed out in the Newsletter (Vol. II, No. 6, January, 1970) describing the second workshop, cause-oriented clinical programs are likely to be self-destructive.

On the agenda for the second workshop was the question whether clinical legal education should continue its elitist approach or whether it would be so structured as to be made available to the majority of law students. Not unexpectedly, a part of the discussion at that workshop was devoted to an analysis of costs. Would, for example, increasing the size of a clinical program from an "elitist" fifteen to one hundred and fifty simply mean that the cost of the fifteen man program was to be multiplied by a factor of ten? Although not placed on the agenda for the third workshop, the issue was raised again and additional viewpoints were ventured.

Most of the cost of clinical education is bound up in supervision. Thus, most of the money that CLEPR provides to law schools via grants is used to create a faculty supervisory position for a clinical program. To set the stage for the discussion, it was hypothesized that at a ratio of fifteen students per full time supervisor per semester (which present experience seems to be centering on), a total of thirty students per academic year could be "turned out" by one supervising attorney on a law school faculty. Assuming an average cost per supervisor of $20,000 per year, and a potential body of supervisees numbering approximately 30,000, then a total of one thousand supervisors would be needed in legal education at a cost of approximately $20,000,000. Adding to this figure the cost of secretarial help, office supplies, insurance, etc. but not adding any remuneration for participating students, the total cost figure would approach $30,000,000.

Although proferred admittedly as a very rough device for estimation and as an even rougher estimate, many of the workshop participants took sharp issue with this analysis. The methodology involves a simple extrapolation. As such, it can be extremely misleading. In an experimental atmosphere, costs are bound to be higher. However, many law schools are saying: "We're not really too sure about clinical legal education but our students are demanding that we institute a clinical program, a minority of our faculty are highly in favor, and a majority are willing to have a go at it. So fund us a clinical supervisory position (or if you fund one such position, we'll establish another), and we'll give it a try."

Several participants indicated that if law schools really become serious about clinical education, they would conceive of it as part of a general restructuring of the entire curriculum. In the process of reallocating resources, the cost of the clinical component might well be offset by savings in other areas. For example, if less time is spent teaching the traditional courses, this would free up resources. So too would the addition of "mini-courses," that is, courses designed to give students some insight into an area (for example, what they would need to pass a bar examination) though not designed to give

them the kind of expertise they would need if they were going to practice law in that area.

Several participants expressed concern over the fungibility of law school resources. Is it practical to anticipate that as part of a general restructuring, teachers in one area could be moved into a different area?

The question of the cost of supervision is closely related to the issue of just what supervision is. One recommendation which implicitly raised the supervision issue was that a grant should be made to a public-type law office to enable it to hire an additional man to supervise law students who would be assigned as interns to the office. Posed in this form, the recommendation replicates one of the central issues in the presently ongoing debate over what clinical education has to offer that is additional to what a student is exposed to when he enters practice. In other words, while many feel that the clinical experience is valuable, others question the desirability of a law school setting for the provision of the experience.

More insight into the nature of supervision may shed more light. How, asked one participant, is a clinical experience in a law school setting any different from what the neophyte lawyer receives from the large firm or government agency? In making the reply and a distinction, the view was advanced that there were two separate features: supervision as access to counsel, and supervision as teaching. The former is the let's-be-sure-we-do-this-thing-right variety. The latter involves a conscious dedication to education. Beginning with orientation courses, it includes the teacher's sitting in on interviews and thereafter offering criticism of the student's interview technique and choice of questions. The student is asked to reduce everything he does to writing: the interview, his concept of the litigative strategy, memos to the file during the course of the case, witness interviews, etc. Each and every such product is subjected to analysis. The student is asked periodically what his view of the case is and what he would do at that point. Each such response is in turn the subject for discussion. The supervisor will suggest alternative litigative strategies. The student responds by defending or otherwise modifying his own conception. The basic design is to force the student to confront all the issues in the case including those that are less than obvious. This process of confrontation, of constant recitation, is not unlike the Socratic technique. Instead of a casebook, however, it is a live client that supplies the subject matter. Supervision as teaching differs from supervision as access to counsel. This distinction is vital to clinical legal education.

The workshop examined the role of the practitioner in the supervisory process. Most participants agreed that the parameters of this participation have yet to be defined. One view advanced was that even very competent practitioners often do not make good supervising teachers in clinical programs. The experienced and highly able practitioner often reacts to situations arising in practice in an "intuitive" manner. Early in his career, he no doubt gave careful consideration to various circumstances arising in his practice and, in an equally careful manner, formulated his responses. With the passage of time and the repetition of related social and legal fact situations, certain of his responses became second nature. He no longer had to think about what to do -- he just did. Teaching is a process which requires looking at the obvious, reducing this experience to its funda-

mental constitutive elements and analyzing each such element. Because the experienced practitioner often is not aware that he is going through a decision process, he is unable to subject his responses to this kind of analysis. But it is the heart of supervision as teaching that each decision in the litigative process be identified, delineated in detail, expressed explicitly, and analyzed within the context of competing alternative strategies.

Supervision as teaching was the jumping off point for another focus of discussion. Here the subject matter was the competence of legal counsel and whether this was an educational value derivative of clinical education.

In developing this view, the position was advanced that the legal profession has not dealt with establishing standards of professional competence. . Ethical standards are set forth in the Canons of Professional Responsibility but the latter do not purport to establish any minimum performance levels. The public is told on the one hand that the legal profession is self-policing and therefore exempted from public scrutiny; but on the other hand, the profession is unable to give the public any assurances that the overall quality of the day-to-day practice of lawyers in a community is at any minimally adequate level. Even defining what would be "minimally adequate" or an acceptable lawyer-like product would be a precedent-setting undertaking.

Several in the group were uncertain as to what was meant by "competence." One response distinguished between proficiency and competency by stating that one becomes proficient by repeatedly performing a certain task. In other words, proficiency derives from practice and no law school would aspire to producing legally proficient students. The responder went on to state that in his view the "standard of competence" being referred to was really a standard of professional performance.

Another view distinguished competence from professional responsibility although conceding that if a lawyer's work product were not adequate, then he was not fulfilling his professional obligation. But adequate according to what standard?

Still another view distinguished competence from skills. Certain skills such as drafting, interviewing, brief and memorandum writing can be taught in the classroom. And while it is more likely that a student who has mastered the skills will render competent service, still competence involves more than the mastering of elemental skills. It includes the fitting together of each such skill as part of the process of developing a solution to the client's problem and the use of each such skill in the production of documents, litigative strategies, and legal research, at a certain level. But again, just what this level is has yet to be defined.

Although no clear consensus emerged, one thrust of the discussion was that law schools were in a unique position to influence and even bring about the setting of levels of competence. It was further suggested that this could be done through clinical programs. Supervisors practicing law in clinical programs would provide models which the students could then pattern themselves after. The uniqueness of the law school is that it is the only time in the career of most lawyers that they can practice law without being under the thumb of

economic pressure. In law school they can do it "the right way" when out in practice the time pressure to perform in some lesser fashion is great.

Several expressed doubt as to whether any such law school-centered experience, even one gained from a full semester or semester plus summer block time arrangement, could have the kind of impact that would withstand the pressures of practice. In response it was pointed out that law schools have come to regard themselves as centers for substantive law reform. What is being advanced is the notion that law schools are also the place for the reform of professional practice, that is, for the setting of professional performance standards. Again, although there was no clear agreement even on terminology, it was agreed that if such a view were feasible, it would require the best examples of both kinds of teachers - classroom and clinical.

During the course of discussing supervision of clinical programs and the possible role of the private attorney in this process, the specific role of the trial judge was also raised. Actually, the point made was less an assertion than a question. The most interesting reaction was the general acknowledgment that little thought had been given to the use of the judiciary in clinical programs. It was pointed out that some judges permit trials conducted by clinical students to run longer than usual out of deference to the student's lack of experience and his need to go slowly. Other judges participate in closed door post-mortems at which they candidly evaluate the student's performance. And still others are used to teach trial practice courses. Several difficulties that the use of a judge in a clinical program might give rise to were discussed. There was general agreement that a more formally defined role for the judge is yet to be developed in connection with clinical legal education.

One participant felt that specialization was a key to elevating professional practice levels since this might well result in the establishment of review boards for each specialty. The boards would not only qualify an attorney for listing under the specialty but would also periodically review his work product. Such a development would have many parallels to the review boards which operate in hospitals to examine the work product of surgeons and physicians certified to practice at the hospital.

On many occasions and in many different forms during the course of the workshop, the issue of the impact of clinical programs on law students surfaced. At one point, CLEPR was urged to extensively evaluate clinical programs to supply the kind of hard information that law school faculties are so highly desirous of. (Actually CLEPR has established a Visiting Research Professor Fellowship for the purpose of obtaining on-site evaluations of ongoing clinical programs. It has also recently announced an elaborate reporting form for its grantees). In making this point, much emphasis was placed on innovative undertakings, such as major block time arrangements, and the need to have feedback on the success or failure of these ventures.

The point surfaced again in a discussion of the value of clinical programs and was phrased in this form: Are students who have been through a good clinical experience any different from those who have not been so exposed? Do students behave differently in practice

because they have been exposed to clinical programs? Are they more sensitive to certain kinds of problems? There was general agreement that these issues merit increased attention.

The workshop concluded with a discussion of the American Bar Association's standards for accreditation for law schools and how certain of these standards relate to clinical legal education.

NOTICE RE MODEL PROSECUTOR-LAW STUDENT CLINICAL PROGRAM

CLEPR has received an excellent response to the February announcement of the availability of funds from the National Institute of Law Enforcement and Criminal Justice (LEAA-Justice) for support of Model Prosecutor-Law Student Clinical Programs. Since approximately twenty schools have already been in touch with us we must advise that it will be impossible for us to give consideration to any program brought to our attention after the deadline of April 10. We have no choice but to adhere to this deadline in view of the shortness of time for reviewing and acting on applications, and also because our grant from the Institute will at best only provide funds for about half the schools which have already sent their applications or otherwise advised CLEPR of their proposed program.

STATUS OF CLINICAL PROGRAM QUESTIONNAIRES

Last August CLEPR mailed a detailed questionnaire to law schools to secure information about existing clinical legal education programs. We are aware of the time and effort involved in completing these questionnaires and are most appreciative of the widespread response. The information gathered is - and will be - of great interest and assistance to CLEPR. It not only helps us see where clinical legal education is but indicates future directions; it exposes areas where much is being accomplished; it also suggests where more needs to be done.

Our original intention was the publication of a pamphlet containing the information obtained from the questionnaires. However, analysis of the information revealed that it did not lend itself to statistical charting. Many of the answers are subject to interpretation and require accompanying explanatory material. We have, therefore, made the decision to keep all the information available for inquiry and reference but not to publish it in the form originally planned. CLEPR conceives part of its task to be to serve as a clearing house for clinical legal education activity. Schools interested in the collected material may write to us for information.

We believe we have learned how to devise a much shorter questionnaire which would

itself directly yield certain basic information suitable for tabular presentation. We may ask law schools to respond to such a short questionnaire in the middle of the next academic year. With their cooperation on the abbreviated questionnaire we should be able to publish the returns directly from the questionnaire without much interpretation and annotation.

Questions from last summer's questionnaires that did lend themselves to direct answers have yielded these statistics: (Differences in totals are due to overlapping categories.)

Number of schools returning questionnaires	80
Number of clinical programs described	134
Types of programs	
Legal Aid	60
Other public or quasi-public offices	32
Private offices	11
Courts	4
Prisoner assistance	11
Juvenile	9
Assistance - mental patients	3
Welfare	3
Housing	3
Selective Service	1
Equal Employment	1
Domestic Relations	1
Family Law	1
Fields of law	
Civil	34
Criminal	42
General	41
Juvenile	8
Selective Service	1
Welfare	3
Housing	3
Mentally ill	4
Equal Employment	1
Clinical programs - credit	90
Clinical programs - non-credit	44

We hope that even this limited compilation will be of interest and help.

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Vol. II, No. 10, April, 1970

EDUCATIONAL VALUES IN CLINICAL EXPERIENCE FOR LAW STUDENTS, PART II

In Volume II, No. 1 of the CLEPR Newsletter, we discussed three of the basic educational values in clinical experience for law students. They are: learning standards for lawyers' basic skills; learning how to manage emotional commitments in the lawyer-client relationship; and developing sensitivity to social injustices, particularly those which manifest themselves in the machinery of justice. We promised a further discussion, and that is the substance of this Newsletter. Our earlier Newsletter discussed the law student primarily. This one is devoted to the law teacher and law teaching.

Not by way of "soft-sell" but as a statement of CLEPR's outlook, we emphasize that clinical education is not seen as an alternative and replacement for all of present law teaching. We see the clinical experiments as suggesting that possibly something additional might be included in the law school curriculum, replacing a certain number of credit hours now devoted to traditional classroom courses or seminars. Since courses do change in law school, we believe it reasonable to assume that legal clinics might find their place in the curriculum.

Legal clinics provide the opportunity to turn the constructive analytical skills of law teachers on law teaching itself in a way that goes beyond discussion of tweedle-dee and tweedle-dum, altogether different from the usual consideration of curriculum reform. The usual discussion of curriculum reform involves such alternatives to existing courses as using the problem or case-method; including written materials other than cases alone; experimenting with films, video tapes or simulations; or even devoting so-called new courses or seminars to the latest substantive area "discovered", be it "poverty law", "urban law", or "environment".

It is remarkable that in a professional school like the law school discussions of new subject matter and methodology have so largely ignored and avoided the educational potential of the real practice setting involving clients and practitioners. True there have been mavericks who in the past have urged the law schools to try legal clinics - this long after many schools had solidly established themselves as professional schools, and escaped from the domination of legal education by the profession in the apprentice system. But their voices went unheeded, or they were tolerated with slight attention as a sign that law teachers are not monolithic in their viewpoints about legal education.

Perhaps the turning point came in the mid nineteen-sixties when the American society turned its attention to the extent and quality of legal services. As availability of service became important it became apparent that doctrine would no longer monopolize the agenda of the law schools or those dedicated to so-called law reform.

Some people are always in the vanguard. The law reform-minded and those just reform-minded seized on the new concern for legal service for all. They found in it a congenial mixture of activism, causes, and a special role for themselves as lawyers. As students and professors they found no problem with assuming that this fitted in the law school as curricular legal clinic work.

We believe that what is needed now is for law faculties as a whole to take the legal clinic development under their wings, and to test the total educational experience possible. Only law teachers can do it. But it means not shutting out the possibility of experiment and development by imposing in advance standards already perfected solely on the basis of law teaching which did not include clinics. Among other things, this unwisely inhibits the talents of law teachers and the potential of law teaching.

Any discussion may exaggerate an actual state of affairs. Thus it is important to point out that on the whole experiments in clinical legal education are receiving widespread support and sponsorship from law faculties. Skeptics have been tolerant and even co-operative. There are those who are just opposed. Those who are seem to center their arguments around two themes which overlap. One is that there is no a priori way of judging the value of clinical education, given the absence of written materials which are considered a measure of so-called intellectual content. This point is sometimes carried further by stating that, absent such materials, or given only how-to-do-it texts, clinical work is merely teaching skills, which is the job of the profession and not that of the law school. The second theme goes to the talents of the teacher interested in clinical work. He is usually pictured as a different type, not ordinarily considered for law school faculties: more practice-oriented; not law review by background or scholarly by orientation.

These statements are understandable as justifications of the status quo. But they should be seen in the perspective of the requirement for sufficient leeway to conduct such experiments as legal clinics.

First, important as they are, the use or existence of written or printed materials cannot be the exclusive or even most important criterion for judging what is being taught and how it is being taught. An excessive preoccupation with written materials, especially as a priority matter, may shut out additional ways of expanding the law teacher's contribution, such as clinical teaching. Second, it is the capable teacher who makes an intellectual experience possible for us as students, and not the written teaching materials per se which happen to be available to him. Of course, some materials enhance the teaching and learning experience. Third, the human capacities which enable a law teacher to educate, in other words to lead us in an exploration of problems, principles and concepts, operate in a clinical setting as well as in a classroom setting. However, it may take different kinds of personalities to put these qualities to work effectively in the different settings.

We can appreciate why a teacher's colleagues as early as possible push for his use of teaching materials. They have value in encouraging research and writing. They also help to impose discipline and guarantee minimum standards of content in classroom and seminar settings. But it is not necessarily productive to insist on so early and so prominent a role for teaching materials in the initial stages of developing clinical models in the law school, although clinical legal education is very much in need of its own teaching materials. Perhaps the nature and newness of the clinical experience is such as to suggest more patience in regard to the production of such materials.

While recognizing the proper contribution of written materials, we might avoid the implication of negative attitudes toward clinical models which sometimes come from claiming too much inherent value for teaching materials. For example, the traditionalist often uses the word "intellectual" to describe the materials now in use in classroom teaching and also what goes on in the classroom. There seems to be an implication that the ability to work with written materials is of a higher order than how to function in a live lawyer-client or clinical setting. The former is presumably to be distinguished from the latter, commonly described somewhat disparagingly as "how-to-do-it", the professional analogue perhaps of "manual" in the artisan's sphere. This reasoning conveys the impression that lawyers go through two stages in their professional careers. The first, in the traditional law school, is the "intellectual" stage of their professional career. The second starts when they enter the "how-to-do-it" phase as a practitioner.

We believe that we have too much to learn about professional education in the law to be content with this dichotomy, which is not in accord with a fuller view of teaching, learning and practice. As much as any other group educators certainly are aware that there is nothing "intellectual" about anything before we apply to it the human personality - its sensitivities and its perceptions. On the face of it nothing could be less intellectual than the so-called case system which has been the teaching material for law schools for generations. Moreover, most judges (the authors of these opinions) have been practitioners rather than philosopher-kings or even law teachers. Compare a casebook with the readings in political theory, philosophy, literature, etc. and see! In spite of this, law professors with the special gifts of human beings have been laboring for decades to afford a semblance of intellectuality to the study of law - to make it look like a learned profession.

Law is a learned profession because it takes all the learning possible - moral and intellectual - to be able to dispense justice, a yearning for which is the reason for law's existence. This is what the profession is about and what makes it learned. It would be a disservice to the law professors not to recognize that it is they as teachers who count; that they are the ones who determine whether any mental and moral exercise takes place during law school, or whether it is learning by rote. The clinical professor has the opportunity to teach the mental and moral exercises with and for people who need the lawyers' help - to stretch the teaching contribution beyond the necessarily restricted setting of the schoolroom itself.

From this point of view it can be argued that education for a profession is impoverished if it does not have a clinical element, because the clinical experience affords the teaching

institution a whole new world to use in the educational process. On the other hand, it doesn't mean that all teaching can or should have a clinical element, or that all the teachers in a given field should be clinicians. There is a time and place for these things in the process of education, and there are teachers for it just as there are teachers for other parts of the process.

The time in the educational process for clinical work (exposure to people as clients) is when a student has proceeded in his career commitment to the point of studying specifically for his chosen profession. This is in the law school. We don't know the ideal point for starting the exposure in the law school, but experiments to date indicate that it can be done prior to the third year.

We should emphasize briefly the difference between clinical education and apprenticeship. The former belongs to formal educational institutions. The latter belongs to the practitioner-employer. One cannot substitute for the other, although either or both may be omitted at a price paid in terms of educational benefit (clinical experience) or proficiency (apprenticeship). Proficiency comes from the kind of repetition of a task or tasks on the job which educational institutions cannot provide for any student. Educational benefits can be found and exploited in law school supervised clinical work. We have summarized these above from the earlier Newsletter.

The teachers who are and will be clinicians may not be the same kind of personality as the teacher who enjoys the reflective life, research, and who teaches mainly through lecturing. Perhaps the clinician will be more like the practitioner in personality. But he has to combine some of the practitioner's qualities with a desire to teach. He is the counterpart of the ideal classroom teacher who is supposed to combine the qualities of a scholar with a desire to teach. What is needed is as much tolerance at this stage for the practitioner-teacher who falls short of perfection as the tolerance we have developed for the scholar-teacher who doesn't quite measure up. We shall probably find a few practitioner-teachers who are really only practitioners, just as we find a few scholar-teachers who are really interested only in scholarship. And most likely we shall find teachers who fall down a bit on practice, just as their counterparts do on scholarship.

So as educators we would do best to see how clinical work can expand the contribution of the law school. It means expanding the fellowship of teachers and the concept of teaching. It all can lead to a grander educational venture. Having a student file pleadings can be a launching pad for probing local court administration, if the clinical teacher and his non-clinical colleagues can see and exploit the possibilities. Otherwise it can be seen mainly as a routine and even monotonous task. It would be better also if the concept of the so-called routine case were reexamined. Can any case be routine from an educational viewpoint? Is there a shortage of non-routine cases? This is worthy of study per se.

We believe that clinical legal education offers us a chance for another look at teaching in general, something we as participants in the educational venture all ought to find intriguing and worthwhile.

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Vol. II, No. 11, May, 1970

REPORT ON FOURTH CLEPR WORKSHOP ON CLINICAL EDUCATION

The fourth of a series of CLEPR workshops on clinical legal education was held at CLEPR's office on May 4 and 5, 1970. Regular participants in the two-day conference were: Dean E. Clinton Bamberger, Jr. of The Catholic University of America; Prof. Daniel Freed of Yale Law School; Dean Norman Garland of Northwestern University; Prof. John Hogarth of Osgoode Hall, York University, (Canada); and Prof. Willis Reese of Columbia Law School. Professor Louis Schwartz of New York Law School gave a special presentation at the end of the first day. During the second day the regular conferees were joined by Fred Danforth, Director of the New Haven Legal Assistance Association, Inc. and Dr. Andrew Watson of the University of Michigan Law School.

Representing CLEPR were William Pincus, President, and Peter Swords, Program Officer. The workshop was organized and chaired by Professor Lester Brickman who is spending the year with CLEPR while on leave of absence from the University of Toledo.

The participants were asked to examine the educational goals of clinical legal education. Recurring over the two days there emerged as a major theme of the workshop a conflict that is inherent in the teaching mission of any professional school. Should clinical legal education be used primarily to teach and develop practitioner skills or should it be used as a method for teaching law students to understand how the law operates, what its purposes are, and how it affects people and institutions in society. To the extent that the attainment of the latter objective produces lawyers more aware of the public service responsibilities of the bar all agreed that a valid goal for a professional school was being fulfilled. It was suggested that the real question was not whether one chooses one approach to the exclusion of another but how a balance is reached between the two goals.

Student motivation was said to reflect the conflict. Learning lawyer skills that will soon be used in his actual practice attracts one type of student to clinical programs. Another kind of student is drawn by the expectation that he will be able to help change the system. With regard to the latter motivation one conferee wondered whether a better purpose was to understand how the law works and suggested that any person who wanted to change the system must already to some extent have understood it.

Several participants commented on the tendency of students to view clinical programs as an opportunity to escape from the intellectual demands of the classroom. As a corrective to this attitude it was proposed that by involving them with difficult problems under close supervision they can be taught that the most rigorous intellectual exercise is required to practice law in any way that is going to produce self satisfaction. This point was seconded by a participant who directs a program that sees reforming legal institutions as one of its central functions. By having students work with institutions and giving them actual problems they discover how little they know and how much more complex the situation is than they had realized.

The institutional approach taken by this program provoked another discussion of an antinomy that frequently arises in considerations of clinical legal education - again distinguishing between two broad objectives for clinical programs. One goal is to expose students as fully as possible to the practice of law, to let them see what clients are like and the problems of handling an enormous caseload. A program involving students working in a neighborhood law office located in the inner-city was proposed as a model to achieve the desired objective. Students develop what was described as a vantage point experience and will take into their practice a sensitivity and perception they might otherwise lack. In contrast to this approach it was suggested that students involved in such programs become frustrated and begin to see their efforts as applying "bandaids on a lousy system". This approach was contrasted to one that perceives its objective as making an impact in terms of changing institutions. Students study institutions and the lawyer's role in shaping and reshaping institutions. A project involving students working in a Federal penitentiary was described. Students are exposed to the multitude of roles involved in a correctional system and come to perceive institutions and their problems through the eyes of non-lawyers. As a result they attain a wide perspective on how the institution came to be the way it is and are able to make better informed judgments on proposed reforms. Even though this program is oriented towards institutional reform the students spend a considerable amount of time servicing clients as lawyers. A consensus was reached that an optimum program would entail both approaches. Initially students would receive a full exposure working with clients as lawyers and then as a second part of their experience would focus expressly on the institutional and systemic aspects with which they were working. Such a program, however, would require considerable more time than the usual clinical offering.

In this connection a number of participants expressed the opinion that students ought to be relieved of any other course assignments during the semester they are enrolled in a clinical program. Working ten or so hours a week for a semester in a clinical program does not give a student the exposure or allow for the supervision that is necessary to assure that a program's educational goals are achieved. It was proposed that they receive a full semester's worth of credit and, if possible, work through the summer before or after their semester of clinical work.

Plans for a semester away from law school in Washington were discussed. For a full semester's worth of credit students would come to the Capital in June after their second year and remain through the fall term of their third year. They would be employed by

law offices and law related offices such as committees on the Hill and administrative agencies.

In addition to their employment they would be enrolled in three courses given at one of the local law schools. The first would cover lawyer's skills such as interviewing, counseling, finding and developing facts,and trial advocacy. A second course would be given on law and the behavioral sciences. Students would learn how as lawyers they can use the tools of behavioral sciences. A final course would bring the students together to reflect about their various experiences in order to develop a broader view of the legal process. It was remarked that the program would only be successful if the lawyers with whom the students would serve their apprenticeship were aware that they were to be teachers as well as employers.

There was complete agreement that a classroom component was absolutely essential to a clinical program. Those who emphasized learning about law over learning how to practice law saw the classroom as providing a time to reflect upon the systemic and legal process implications of their experience. On the other hand one participant who stressed the importance of teaching practitioner skills described a fascinating seminar he had developed that explored the conceptual foundations of very mundane and practical procedural problems. He gave as an example the theoretical reasons for filing documents at one place rather than another in order to commence a suit. He felt it was indispensable for law students to learn how to discern the conceptual reasons for practical rules of procedure, and that without such an understanding studies of the broader socio-legal policy questions would be grounded on an unsure base.

One participant described an attempt to create a different kind of learning experience than what students will ordinarily have upon entering practice, an approach whereby for a short period of time the students live the parts of various people in the criminal justice system.

To understand the law a student must look beyond reported decisions and legislation and see as they actually are the problems from which the law has developed as a means of solution. This is done in part by placing the students in the positions of people who experience the direct impact of the law so as to learn how these people live and think and experience their environment. For instance a number of students have spent up to three weeks in prison as inmates; some have sat on parole boards; and others have ridden with police. The students thus learn how the phenomena surrounding the problem that gave rise for the need for legal intervention appears to the various actors in the legal system.

For the student to attain an objective comprehension of the problems he must learn to rid himself of preconceived concepts that invariably cause the observer to misperceive the given phenomena. To this end, before the students begin their field projects they are given instruction in participant observation and are taught to observe

without judging. Each discipline of the social sciences tends to take only a small segment of the total phenomena and distort and reduce it to fit its conceptual framework. There is an analogous concern that in the process of professionalization one will loose his sensitivity to the human aspects of the whole process. For any legal system the people as people involved in its operation are as important as the rules of law. Field experiences of the kind described are essential for understanding the whole world out of which a legal problem develops. Field experience is thus a central part of a new methodology that becomes an integrative exercise avoiding the tunnel vision of individual disciplines.

A student, having lived the part of several actors in the legal system and having asked the question of what it means from the standpoint of a defendant, police officer, prosecutor and jailer returns to class to ask what it means to him as a law student to have been on several sides of the matter. These insights are integrated with information drawn from the literature, and an attempt is made to gain an overview of the whole system.

The benefits to a student of such a program are two fold. He will be better able to understand the people with whom he will come in contact in the course of his practice and so be better able to serve his clients. Further he will derive a better understanding of the law as it operates in society.

For part of the second day Dr. Watson explored the uses of clinical legal education for training lawyers in the psychological process aspects that are involved in the practice and learning of law. He pointed to a number of stress situations where the psychological element is of considerable influence on a lawyer's performance. In their clinical work for the first time students face real problems, and such encounters produce anxiety.

Of particular significance is the relationship between the lawyer as a professional and his client. Inevitably such a relationship involves someone in need of assistance presenting himself to someone with power to help him. Without becoming authoritarian the lawyer must succeed in convincing the client that he has tools that will work for his client. Attaining this objective becomes a large factor in establishing the proper mode of communication with his client. When faced with a hostile or disturbed client with a severe human problem this can be an enormously difficult task that quite naturally provokes within the lawyer intense anxiety.

Dr. Watson detected a tendency in law students to avoid what they call the messy areas of the law, areas involving emotional human problems. Somewhat related to this is student boredom with routine cases such as matrimonial matters. Boredom is a symptom that signals a student's reluctance to get inside the private problems of their clients. Any good professional must be able to get inside his client's private problems whether he is drafting a will or assisting a mother in having her son committed as a person in need of supervision.

Dr. Watson perceived the objective of clinical programs going far beyond merely developing an interest to work with social problems. It lies in teaching students what we know about human behavior in order to assist them in developing an ability to deal with "nasty human elements" of a professional practice. While many good lawyers use to great advantage insights into human behavior they have intuitively grasped, Dr. Watson suggested that law students can be taught to do this cognitively. The time of a students original experience with difficult situations, moments which Dr. Watson described as crisis points, is particularly effective for reaching him. Not as yet having fully developed defensive armor plate to ward off the anxiety provoked by a troubling experience, he is accessible to new insights.

Unless these affecting events are interpreted for the student the experiences will be of little educational use. Dr. Watson believes that students can be taught to perceive the relevant data of human behavior that lead to an understanding of the underlying and influential human elements of a situation; that they can be taught psychological concepts that will enable them to interpret the data; and that they can learn how to use these concepts to make conclusions about the psychological aspects of the problem that will enable them to function better as professionals. Dr. Watson suggested that these concepts can be mastered and taught by law professors and that it can be done in a classroom setting with a large number of students.

Several participants pointed out that in cases where a man has been brought from another location to direct a clinical program it takes a considerable length of time for him to become sufficiently familiar with the different people and institutions that a program encounters so as to be able to adequately supervise the program. Program directors must be able to deal with students on a factual level as well as intellectual and ideological levels. The same point applies to faculty members, unfamiliar with the city in which the school is located, who initiate clinical components in their courses. Because the kind of information needed cannot be derived from library sources, it probably takes more time for a professor to attain the necessary factual background to teach a clinical program than in the case where he has been assigned to a classroom course he has never taught before.

The conferees agreed that clinical programs would help bring the real world into the law school. It was thought that the involvement of faculty members and the participation of practicing attorneys in clinical programs would invigorate law schools. One participant hoped that after a while many of his colleagues would add clinical components to their courses. Several conferees thought that the provision of a role model -the hero- for students through their contact with attorneys in their clinical work was an important function of clinical programs.

Some discussion was held on the use of new technologies for teaching law students. Professor Louis Schwartz demonstrated a course on evidence which utilizes audio cassettes in connection with a workbook. Several short trials, renarrated by professional actors, were contained on the cassettes. The testimony in each trial gives

rise to objections pertaining to various subject areas in the law of evidence such as Hearsay, Admissibility of Confessions, Relevancy, etc. The student plays the tape until opposing counsel is heard to say "I object". During the ten second pause that follows the student decides what he believes the ruling should be and indicates the result and the reasons therefore in his workbook. After the silent interval, the tape continues with a commentary in which the problem presented and the legal principles involved are expounded and the correct ruling indicated. An accompanying Instructor's Guide contains a more detailed representation of the authorities cited. Several conferees pointed out the dangers that are inherent in any learning by rote, but thought that the technique could be useful to help an attorney review an area of law. Another participant described the presence of a second unofficial jury in an actual civil trial whose deliberations are video taped and made available to the law school. Both parties agree to the presence of the second jury. It is impaneled by the presiding judge from the same jury list that the official jury is drawn from. Jury fees, in an amount similar to that paid to the regular jury, are deferred by the law school. The unofficial jury was reported to be extremely conscientious in its deliberations. Students observe video tapes of their efforts and thereby derive insights into the functioning of a jury that otherwise would not be available. This approach was compared to an arrangement developed at the London School of Economics where a trial is taped and an unofficial jury listens to the tape. An opinion was offered that these new techniques should be used only as an aid to clinical education and not as a replacement.

During the course of CLEPR's existence, it has received several applications for grants to fund clinical programs at part-time law schools. Seeking a better understanding of the special problems of part-time schools in the clinical area, CLEPR invited the following five educators to a dinner meeting held in conjunction with its regular May 4-5 workshop: Dean Cleon Foust and Professor Charles Kelso of Indiana University at Indianapolis; Professor Roger Bernhardt of Golden Gate; Dean Jerome Prince of Brooklyn Law School; and Dean Thomas O'Toole of Northeastern.

Despite recent terminations of evening law school divisions, evening law school enrollment remains at a substantial level. Approximately one out of every five law students is in an evening program, while one out of every seven law school graduates is from an evening program. Since clinical education programs are now being offered in most law schools in the country, the question naturally arises: does clinical education have any role to play in evening divisions and schools; that is, is clinical education a feasible undertaking when the students who would participate are employed full time or almost full-time during the day?

Several participants advanced the notion that the possible involvement of evening students in clinical programs is closely related to their employment. Noting that the job pattern of an evening class shifts somewhat from the freshman to the final year, and that approximately 10% have law-related jobs during the first year (law clerks with private firms, judges, prosecutors, or solo practitioners),it was indicated by a participant that at one multiple division school this pattern shifts to approximately 20% in

the senior year. Taking into account the precise nature of the job functions of those students working for government agencies and insurance firms, the percent of students engaged in law-related work rises to about 35%. A study made at the institution in question indicated that another 15% of the students have sufficient job flexibility that they can devote 8 hours a week to day-time clinical work.

One possible way then of approaching the matter of clinical experience for evening law students is to ask: how do you take advantage of legal experiences that students are exposed to during the regular course of their employment; and what do you structure by way of clinical experience for the remaining 50% of the students?

For those presently engaged in law-related employment it was suggested that the law school provide some formal means of feedback. Some form of seminar might be instituted which would enable students to reflect on their experiences, relate them to their course work, and integrate their theoretical training with their practical experience. Offering such a seminar might induce some portion of the remaining 50% to switch to law related employment in their third and fourth years.

As for providing clinical opportunities in the evening and on the weekend so that those employed in non law-related endeavors can gain clinical experience, it was suggested that a variety of institutional settings are possible. Arrangments can be made with various legal aid agencies to maintain evening hours, or the law school could open its own clinic with the hours fitted to its own capabilities. If the existence of a student practice rule and evening court sessions coincide, then evening students could even appear in court. Other possible institutional settings include prisons, police departments, labor union group practice programs, mental hospitals, probation departments, etc.

The uniqueness of certain expertise to be found in evening law schools such as engineering and science graduates, investigators, journalists, tax experts, etc. might be utilized by setting up an interdisciplinary field project such as a pollution control program. Analogizing to events taking place at major law firms, it might be possible to convince industry to give such students released time. (It might be a public relations coup for the first corporation which takes part.)

Another suggestion raised the possibility of the semester-away program now being utilized by several day-division law schools.

Generally it was agreed that no one solution would be best for all evening students. Rather a combination of approaches is called for. What these approaches should be remains an open question.

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Vol. II, No. 12, June 1970

ELEVEN MODEL LAW STUDENT-PROSECUTOR GRANTS ANNOUNCED BY CLEPR

Under a grant from the National Institute of Law Enforcement and Criminal Justice of the U.S. Department of Justice's Law Enforcement Assistance Administration CLEPR was authorized to award contracts to law schools for support of clinical education programs in the area of criminal prosecution. Twenty five applications were received. From this number eleven contracts totalling $236,134 have been awarded to the following universities: BOSTON, EMORY, FLORIDA, GEORGETOWN, GEORGIA, LOUISVILLE, SOUTH CAROLINA, SOUTHERN CALIFORNIA, SOUTHERN METHODIST, STANFORD and TEXAS TECH.

Several characteristics are common to the eleven awards: all are for model law student-prosecutor clinical programs; all receive financial support from the recipient school; all are for a two year period and will be continued without CLEPR support at the end of this time if they prove their worth educationally and financially; all receive academic credit; and all have related classroom courses.

The total budget for the eleven programs is $584,500 with the schools' contribution amounting to $348,366. Of CLEPR's contribution of $236,134, 65% will be used for direct support of supervision of the programs - salaries of professors and staff attorneys. The average of the eleven contracts is $21,500 - the highest, $28,964, the lowest, $10,000. Three schools will receive additional financial support from county or local agencies.

A CLEPR award of $10,000 will enable BOSTON UNIVERSITY Law School to expand an existing program in criminal prosecution in Suffolk County (entirely funded by the law school) to neighboring Norfolk County. Here students will be able to prosecute misdemeanor cases before 6-man juries rather than before a District Court judge. The 30 students involved in the program will work in three man teams under the close supervision of two former district attorneys who have been appointed special members of the law school faculty. Four semester credits will be given.

At EMORY students will perform the prosecutor's function in the Juvenile Court where currently the state is unrepresented. Under the full time supervision of a staff attorney who will be authorized to represent the district attorney in juvenile matters the

students will spend 8-10 hours a week in field work and receive seven hours of credit for participation in the program for three quarters. They will also enroll in two related seminars - Juvenile Prosecuting Practice and Legal Clinic. The entire award of $20,000 will be used to pay the salary of the staff attorney.

At present the UNIVERSITY OF FLORIDA School of Law maintains a clinical program composed of two basic sections, Legal Aid and Public Defender. With the CLEPR contract of $22,750 a Prosecutor Clinic will be added. Approximately twenty five students will be involved in each quarter, six to eight in the preparation program and the remainder working in the Clinic. Three hours of credit per quarter will be given. Students will work in the office of the state attorney under the supervision of the program's director and the assistant state attorney to whom they are assigned. If an amendment to the student practice rule presently before the Florida Supreme Court is approved, students will not only be able to have major responsibility for preparation of cases but will also be able to prosecute in court.

The awarding of $15,000 to GEORGETOWN UNIVERSITY will allow the Law Center's existing clinical program in the defense of criminal cases to expand by exposing students to the police and prosecution phases. Fifteen third year students will receive two hours of credit for participation in a weekly seminar and in field work with the special counsel to the police chief and the U.S. Attorney's Office for the District of Columbia. Emphasis will be placed upon the use of law students to serve as liaison between the police and the prosecution and in assisting Assistant U.S. Attorneys in criminal cases. Contract funds will be used to hire a former Assistant U.S. Attorney as an adjunct professor who will supervise the students' field work and to pay a portion of the salaries of the directors of the program who will conduct the component seminar.

The UNIVERSITY OF GEORGIA Law School presently has an active Legal Aid and Defender Program directed by an experienced attorney with faculty status and staffed by law students receiving credit for work with indigents in civil and criminal cases. CLEPR has awarded $26,000 for a program designed to complement existing clinical work by exposing students to the problems of prosecution. Twenty to thirty second and third year students will receive three hours of credit for spending one day per week in the prosecutor's office and attending a related weekly seminar. In Georgia third year students are authorized to practice and will be permitted by the district attorney to do so at preliminary stages of the process and in relatively simple cases at the trial level where the state is not represented at all at present. This should prove a valuable contribution to judicial administration.

An award of $25,000 to the UNIVERSITY OF LOUISVILLE will permit the School of Law to inaugurate a Clinical Seminar in Criminal Justice. After completing prerequisite classroom courses and a summer of field work, twenty third year students will serve as prosecutors of misdemeanants in Circuit Court who have appealed for a new trial. In the belief that a better understanding of the prosecutory function will result from seeing both sides of criminal cases, a few students will act as defense attorneys. An Assistant Commonwealth Attorney will be consultant and mentor to the students in the preparation and trial of cases, while two professors will be responsible for overall supervision of the casework and the direction of a related seminar. Four

hours of credit will be given each semester for the program - two hours for classwork and two hours for fieldwork.

The UNIVERSITY OF SOUTH CAROLINA, where participation in clinical work is mandatory, presently offers two clinical programs. With the CLEPR award of $23,000 a third clinical program will be offered in which third year students will provide representation for the state in magistrate court. Currently police officers present evidence without the assistance of the prosecutor's office. Contract funds will be used to hire an assistant professor with experience as a prosecutor to supervise student field work. Two hours of credit will be given for a seminar centered on prosecutorial functions and three to five hours of credit given for clinical work depending upon the number of cases handled by the student.

The student prosecutor program at the UNIVERSITY OF SOUTHERN CALIFORNIA Law Center, funded at $27,500, will form a substantial part of a new curricular program entitled the Clinical Semester. In this major commitment to clinical education, students will attend no regular classes during the semester, but will engage solely in a variety of clinical work and attend seminars relating to their clinical experience. The prosecutor program, one of several placements offered in the overall Clinical Semester, will require that students spend two days a week in criminal trial court and participate in a related seminar. Direct in-court supervision will be provided by assistant district attorneys, and one of them will be appointed Adjunct Professor to assist in preparing and conducting the related seminar. A full semester's academic credit will be given for the Clinical Semester as a whole; six hours for participation in the student-prosecutor segment.

At SOUTHERN METHODIST UNIVERSITY the Law School now operates a civil legal clinical program. The CLEPR award of $21,000 will provide partial support for a new faculty member who will direct a prosecutor program and plan for the initiation of other clinical programs in the criminal area. Since Texas has no student practice rule, students' clinical work depends on permission granted by the individual judge. However, students will act as advisors to the police and assist the prosecutor in receiving evidence and interviewing witnesses. Progressively, students will participate in plea negotiations, prepare motions and assist on major felony trials. The faculty member will supervise and critique student fieldwork and conduct the related seminar. It is anticipated that students will spend from six to ten hours a week in the field for two hours of credit.

An award of $28,984 to STANFORD UNIVERSITY will permit the Law School to reorganize its current program in the area of criminal prosecutions and to take full advantage of the new student practice rule in California. After a two week orientation period students will be assigned to a variety of jobs within the county prosecutor's office, progressing from assisting attorneys to handling misdemeanor and then felony cases themselves under the supervision of a teaching fellow and assistant district attorneys. Four semester hours of credit will be given. In addition three professors will cooperate in presenting a new seminar whose content will be closely related to the students' work in the prosecutor's office.

With the CLEPR award of $16,900 the new TEXAS TECH Law School will institute its first clinical program. The program will provide students with a broad range of practical experience in prosecutorial work. They will be involved in all phases of trial preparation in both adult and juvenile courts under the supervision of faculty members and will present cases accompanied by an assistant prosecuting attorney. The clinical program will be supplemented by a course in advanced criminal procedure and a seminar on juvenile court problems. Credit will be given for each portion of the program.

At the practical level the above programs all provide manpower assistance in overworked and understaffed offices. Three of the programs provide representation for the state where none now exists. Three other programs provide needed help in the juvenile courts, while several have students serving as the prosecutor's liaison at police precincts where such liaison is now minimal. Most of the law schools, with the aid of the above contracts, now will explicitly provide an opportunity for students to gain clinical experience on both sides, prosecutor and defense, and previously announced CLEPR grants have supported a number of programs concerned with defense. CLEPR hopes that these awards and its program generally will encourage more attention to the entire process of criminal justice, and result in linking clinical legal education to the process whenever there is an opportunity to learn and an appropriate service to be performed by one preparing to be a member of the bar.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

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Vol. III, No. 1, September 1970

Prefatory Note

Earlier this year CLEPR invited a number of persons who have given considerable thought to clinical legal education to submit a number of essays to CLEPR for publication in our Newsletter. The first of those essays is published below. While CLEPR commissioned these essays and is publishing them, we are not endorsing the views presented. We hope that the publication of these views will stimulate further thinking by those interested in clinical legal education and in legal education generally. We encourage our readers to write to us directly about any of the essays in this series, and also directly to the authors. Jerome Carlin's address is 981 Creston Rd., Berkeley, California 94708.

WILL CLINICAL EDUCATION MAKE IT?

by Jerome E. Carlin

Several months ago I agreed to put together some thoughts on a subject of my choosing for an issue of the Newsletter. Because I am no longer in the business, having left the San Francisco Neighborhood Legal Assistance Foundation about a year ago to return to an earlier passion (painting), the editors may have been seeking an impartial - if no longer especially informed - comment on the state of clinical education. Assuming that this was what was wanted, I enquired of some of my friends - who are still in the business - if there was a future for clinical education. What emerged from these discussions and a little reading in the field I will now present.

First, however, let me say why I believe a full-blown clinical education program is worth having. Its principal benefit is that it would add substantially, in a direct and not excessively expensive way, to the meagre resources available for the provision of legal services in the public sector. (Although students work primarily in poverty law offices, their services are also welcome in DA's offices, in prisons, as court clerks, and in the burgeoning ecology and consumer law movements.) Thus, if all law students were to spend the equivalent of one semester in clinical work, then every year approximately 10,000 supervised law students would be available for service. This represents five times the number of lawyers currently employed in OEO-funded legal services agencies. Moreover, the cost should not exceed a thousand dollars per full time law student practitioner (see below).

A well run clinical program also has the possibility of enriching legal education. Its educational value lies not so much in the development of practice skills as such, but in using

the students' practice experience to broaden their conception of the scope and relevance of the legal process by, among other things, directing attention to the variety of ways and settings in which law can emerge and be administered. This becomes a compelling concern at a time when the role of law is being extended so rapidly beyond its traditional confines.

What are the prospects for the program? It seems to me that the battle to establish a minimal clinical program has probably been won: in the very near future it would appear that most law schools will have adopted such a program. By a minimal program I mean the establishment of a clinical course for credit given by a person with at least nominal faculty status, and involving only a small proportion of the student body. The big hurdles here have been gaining acceptance from the faculty of the principle of giving academic credit for a practice course, and finding the money and/or the slot for an addition to the law school faculty. In the face of growing student demands for clinical experience, granting a few units of credit for such work probably seemed a small price to pay - especially if the ordinary routines of faculty members would not be interfered with. Moreover, there are apparently a number of law professors, who were once highly sceptical of the clinical program on intellectual grounds, who have found that it can indeed be a high quality educational as well as professional experience. Financial assistance from CLEPR has eased the economic problem.

To move beyond this minimal program to one that would involve most if not all law students for a major chunk of their time - say at least the equivalent of one full semester - is going to be an extremely difficult task, given the number and kind of personnel needed to run the program.

If all law students are to be involved for a minimum of one semester on a full time basis, then there would have to be enough clinical professors to handle approximately 10,000 students (one-sixth of the total student enrollment). A critical question is the number of students that can be effectively handled by a clinical teacher. (The responsibility of the clinical teacher would entail, in addition to conducting a practice seminar, the supervision of students participating in major cases as well in dealings with clients on more routine matters.) Some have argued that if you go beyond five or six students there will be inadequate supervision. Twenty has been presented as the upper limit by many other observers. The very successful clinical program in San Francisco, in which students from Boalt Hall and Hastings work in SFNLAF offices, has been run with two full-time clinical professors each having responsibility for twenty students. The students, however, are less than full-time, and each teacher has two attorneys in the neighborhood offices for ten hours a week assisting in the supervision of students. Peter Sitkin, one of the clinical teachers in San Francisco, believes that it may be possible to have as many as thirty students with three supervising attorneys in the field, and that while there are obvious advantages to paying these supervising attorneys it may not be necessary. The fact is, no one really seems to know for sure what the appropriate ratio is, or what the division of labor should be, if any, between clinical professor and field supervisor. Clearly there should be some systematic effort to try and zero in on this question.

If we assume a 20 to 1 ratio, we would need 500 clinical teachers, and if they are paid on the average a salary of $20,000 a year (which does not include secretarial expenses,

space, phone, etc.), then the total bill would be about ten million dollars a year. As I said earlier, from the point of view of services rendered by student practitioners, that is not an unreasonably large amount. But from the point of view of the overall law school budget it represents a big slice, and given the present mood in Washington it begins to look like the impossible dream.

It is, of course, possible that a big share of the cost could be borne by the law schools within their existing budgets. This would necessitate the redefinition of a certain number (about 6 in the average-size law school) of present faculty slots as clinical positions. Unless some existing law school professors were willing to make the switch (and it seems unlikely that there would be enough willing to shift careers who also had the requisite practice experience), you would either have to remove some (never a pleasant task but sometimes beneficial), or wait till some retired, and then replace them with new clinical teachers. In any event, those remaining in the traditional academic positions would have to increase their teaching load - leaving them less time for their research and writing, or special interests. There may well be enough fat in law school budgets and teaching loads (a number of my informants are privately of this opinion) to make this redefinition possible. But the politics of the change may be something else, since unlike the minimal program, this would begin to hurt where most law professors really live.

If the 500 or so clinical teachers are to be added on to existing law school faculties, then obviously more funds will have to be found, and the source that most readily comes to mind is the federal government. While there is admittedly little sympathy at present on the part of state or federal government for funding new programs benefitting the universities, a strong argument could be made that a full-blown clinical program is one of the more inexpensive ways of meeting the urgent manpower crisis facing our legal institutions that Chief Justice Burger and others have been recently calling attention to.

If a full scale clinical program is going to cost about what I have suggested it will cost, and if it is highly unlikely that funds can be found on the outside to cover these costs, then we should indeed begin immediately to find some way of convincing law school faculties to make the sacrifice. Let me suggest how this might be done.

I would recommend that CLEPR help underwrite a full-scale clinical program in 5 or 6 law schools for a 2 or 3 year period in order to explore the problems of such an enterprise, and hopefully to demonstrate its desirability. Included among the law schools selected to participate in this experiment there should probably be one "Ivy League" or top quality national law school, one of the new "urban law" oriented law schools, a state university law school, and a "night" law school. A major effort should be made to recruit outstanding lawyers to fill the clinical professorships in this project - that is, lawyers with top academic credentials who are also considered top practitioners. There obviously are such people around; many of them have been working in OEO-funded agencies.

Success of the experiment will be measured largely in terms of the degree to which it has been able to enhance the legitimacy and prestige of the clinical professorship. A critical question is whether status will be given to those who have not necessarily demonstrated proficiency in conventional legal research and writing. It may turn out that the clinical professors will have to make some showing in this direction. Or, perhaps the

clinical program will serve to enlarge the definition of legal research and writing in the law schools.

The experiment should also show how much of an additional burden will fall on the non-clinical professors as the participating law schools begin to absorb the cost of the program. It should be noted that this necessary shift in financial burden to the law school is one of the risks of participation which may well deter some law schools from establishing an experimental program. Hopefully, there would be enough with the courage and vision to try.

The kind of clinical program we seek is obviously determined largely by what we conceive to be the goals of clinical education. Having emphasized the public service goal, the tendency is quite naturally to push for maximum time spent in the field working on live cases. The program also has major educational goals, in my view the most important, as I have said, is to bring about a broader, more balanced, and more realistic approach to the law, its development and significance. As clinical teachers produce more creative and sophisticated methods for incorporating practice experience in the teaching process, it may well be the case that the amount of time students need to spend in the field could be radically reduced, with obvious manpower and cost savings. At this point some hard decisions would have to be made as to what we really want from clinical education. I believe that we will be in a far better position to make this judgment in two or three years than we are now, especially if, in the meantime, at least a few law schools will have had an opportunity more fully to explore the problems and potentialities of a full-scale clinical program.

Biographical Note

Jerome E. Carlin, author of Lawyers on Their Own: A Study of Individual Practitioners in Chicago and Lawyers' Ethics: A Survey of the New York City Bar as well as many articles, was graduated from Harvard College. He received his Ph. D. in sociology from the University of Chicago and his LL. B. from Yale Law School. He served as Research Director of the Metropolitan Law Office Project at Columbia Law School and Research Associate at Columbia University's Bureau of Applied Social Research. Following this, Mr. Carlin was named Assistant Professor in the Department of Sociology and Director of the Civil Justice Project at the Center for the Study of Law and Society, University of California, Berkeley. He then served for three years as Coordinator of the San Francisco Neighborhood Legal Assistance Foundation (SFNLAF) where he was instrumental in inaugurating clinical legal education programs involving law students from Bay Area schools.

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Vol. III, No. 2, October 1970

Prefatory Note

This is the second of a number of essays written at CLEPR's request to discuss issues in clinical legal education in the light of actual recent experience. Professor Frakt deals with a central problem: How can a law school provide adequate supervision and be satisfied to award educational credits when the student is away in a non-law school facility? Is it better for the law school to have its students in its own clinic?

Professor Frakt is expressing his views and not those of CLEPR, as is the case with all our guest contributors. Again we invite comments on these essays, either directly to us or to Professor Frakt, Rutgers University School of Law, Camden, New Jersey.

SUPERVISING STUDENTS IN LEGAL CLINICS OUTSIDE THE LAW SCHOOL

by Professor Arthur N. Frakt

Believing that clinical experience is an important element of legal education, Rutgers-Camden initiated a clinical legal education program in the fall of 1969. Existing public law agencies were chosen as the sites for the students' clinical experience, this choice determined by a) the manpower shortage in these agencies which are striving to meet expanded community needs and b) the lack of funds to establish a clinical setting within the law school.

Although it would be premature to come to any firm conclusions on the basis of one year's experiment, we can discuss the difference between the anticipated and the actual performance of students in this clinical program and offer some tentative observations on the way that clinical programs utilizing independent agencies function. We shall also suggest alternative models for clinical programs.

The Rutgers-Camden plan is essentially a simple one. Upper class students chosen to participate in the program (some 35 in 1969-70 and over 50 this year) are assigned to different public law offices. Students are required to work for 7 to 10 hours per week within these offices and to participate in any prescribed supplementary academic endeavor. Each semester of successful participation results in the award of one academic credit. One faculty member is designated as clinical professor but rather than directly supervise the efforts of individual students, he serves as a coordinator of the program maintaining such contacts with each individual office as are necessary to assure that the students are gaining a meaningful clinical experience and that each student is performing his assigned task

in an adequate professional manner. To aid the clinical professor, the student participants elect a student Board of Governors which serves as a general policy making board for the clinical program. Financial support for the program is provided by CLEPR and Rutgers University.

It was anticipated that the most educationally rewarding experience as well as that which afforded the greatest service to the community would be obtained by students participating in Camden Regional Legal Services (CRLS), an OEO-funded agency. Students were to gain broad practical knowledge by functioning as actual attorneys with their own assigned cases. The student attorney was to deal with all aspects of a case, from initial interviews, to, in many cases, courtroom representation under a special practice rule approved by the New Jersey Supreme Court. To implement the plan, a substantial part of our temporary law school facilities was turned over to CRLS for a student law office.

By contrast, it was anticipated that the smaller number of students assigned to the New Jersey Public Defender's Office, the U.S. Attorney's Office and the Camden County Counsel's Office would have valuable but limited experiences.

The results of the first year program were often surprising. First, with some outstanding exceptions, the policy that a student would act as the actual attorney with overall responsibility for cases had to be modified and, eventually, temporarily abandoned. During the first semester most students assigned to CRLS were under the direction of the assistant director of the agency. In addition to supervising some eighteen students, he had major responsibilities for appellate and trial work as well as office management. The burden was too great. The problem of supervision was exacerbated by the limited number of hours the students were employed and the demands of the school calendar. Appointments were often missed. Clients and witnesses were not available at the times that students were. Students dropping from the program after one semester left incomplete files. School vacation and examination periods made it difficult to plan the activities of the office. Because of the minimal supervision, those students who were not highly motivated found it relatively easy to avoid their responsibilities. A few of the students in the office were assigned to work with individual attorneys but responsibility for their supervision was not clearly defined. Again, because of the relatively few hours that the students worked, the attitude of some of the lawyers was one of indifference. These lawyers regarded the students assigned to them as representing merely an additional burdensome chore, with little return, and did not provide any extensive supervision.

As a result of this negative experience, during the second semester a young CRLS lawyer was assigned to the student office and was designated to be the managing attorney. All students were responsible to him. He assigned cases and determined when other lawyers should be given student aid. To aid him in supervision, several student supervisors were selected from among those students who had shown the greatest responsibility and achievement. Under this reorganized plan, the student law office functioned in a far superior manner than it had previously.

Unfortunately, serious problems remained. The managing attorney found himself under increasing demands to serve clients directly and was absent from the office for substantial periods of time. After one semester, he left CRLS and his position was not filled, so that

this year those students assigned to that agency are all working for individual attorneys or, in some cases, in different sections of the program such as a landlord and tenant office. Students are not being given any overall responsibilities for cases but are functioning in the more traditional capacity of law clerks.

In contrast, the experience in the Public Defender's Office was generally a very positive one. Twelve students were assigned; six working with the state appellate section and six with a local trial division. At the end of the first semester the students were switched so that by the end of the year all had an equal amount of trial level and appellate experience. A different lawyer each semester was assigned to supervise the work in the appellate section. Fortunately, both of these attorneys regarded student education as an important objective of the program and expressed the conviction that public law agencies have a responsibility to provide clinical experience even though practical returns in terms of work for the agency might, at first, appear to be relatively small. On the local level, students were assigned to individual attorneys where, as was the case with CRLS, the quality of their experiences was varied. There was one important difference, however. Because of the relatively routine nature of the work done by the students for the Public Defender (client and witness interviews, preparation of pre-trial and trial memoranda) students functioned well with less supervision and were, as a result, able to contribute more to the work of the office.

Among the impressions which were gained through the year's experience, one stands out. It is that the quality of a complete clinical experience is largely dependent upon the quality of the supervision. Individual students who were assigned to attorneys ostensibly performing the same functions reported great variations in the manner in which they were utilized; the time spent by the attorneys in working with them; and the ultimate amount of work accomplished. Therefore, it is clear that variations in quality of supervision are a primary concern in assigning students to outside public law agencies for clinical experience. If there are serious initial doubts about quality of supervision in a particular agency, I would suggest that no program be undertaken with it. Once initiated, withdrawal of students can cause serious political difficulties and can engender bad feelings harmful to the students and the school.

Another important conclusion drawn from our experience is that the more varied the experience the greater the time that must be devoted to it. The 7 to 10 hours per week that our program called for in its initial year was totally inadequate for those employed in the student office of CRLS. Too many skills had to be acquired initially and even when these skills were present, there was seldom sufficient time for the students to successfully perform all the tasks of an attorney. Those students who were most successful in this role worked upwards of 15 to 20 hours per week, and usually had prior experience. On the other hand, the more traditional forms of student legal work were easily accommodated to the students' time schedule. Clerking in the U.S. Attorney's Office which largely involved the preparation of legal memoranda, work on appellate briefs for the New Jersey Public Defender's Office and the work done within a specific section of CRLS (urban law reform) was, in conventional terms, the work which was most successful. Of course, objections may be raised that this kind of work may not present an educational experience qualitatively different to any great degree from the experience gained in academic seminars.

If a school desires its students to undergo a clinical experience which will afford them the opportunity to function as attorneys, it must be prepared to have the students invest a considerable amount of time in the program. This will obviously call for sufficient academic credit being awarded for clinical work with a corresponding decrease in traditional academic subject requirements.

An increase in hours would have many salutary effects. It would encourage the public law agencies to treat clinical students as employees rather than occasional volunteers. It would also make it worthwhile for the agencies to invest greater time in training and in supervising the work of the students. Obviously a clinical intern needs just as much training and supervision to perform competently for 7 hours a week as for 40. I would tentatively suggest that if the aim of a program is to provide students with the full range of practical experience, 20 hours a week with corresponding academic credit (5 or 6) should be taken as a practical minimum. If the hours and credits are to be substantially less, the range of tasks and the educational goals of the program should also be correspondingly minimized.

An omnipresent problem in utilizing public law agencies for clinical training is their lack of a sense of responsibility for the training of students of the law. This should be contrasted to the acknowledged role that hospitals play in medical training. Because of this lack of commitment and the greatly varying quality in the supervision available in these public agencies, clinical offices which are controlled by the law school become increasingly attractive. In such offices, attorneys would understand that although their responsibility to the community was great, they also have a responsibility to the law students in their charge which must be fulfilled even if it increases the difficulty of the general legal tasks. Hopefully, law school controlled clinics could also avoid some of the pressures placed upon legal service projects by local or national political exigencies which might force the abandonment of valuable programs.

Another alternative is merely to have small clinical programs operated by individual faculty members in connection with their general academic interests. For example, a teacher of family law might supervise a handful of students in a juvenile courts program. Without denying the intellectual value of such programs, one must question whether the majority really provide clinical as opposed to traditionally academic experience. It is also obvious that until faculties are populated almost exclusively by teachers with strong clinical interests, such programs could not be afforded for more than a minority of the student population.

Perhaps a compromise solution might be afforded by placing one or two faculty members in positions within an agency utilizing a substantial number of students. Their function would be to coordinate the supervision of students and to constantly evaluate the merits of the program.

Ultimately, of course, either public law agencies will have to be charged with the responsibility of performing clinical education functions as do public health facilities in the medical field, or law schools will have to expand their function to provide this experience.

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Vol. III, No. 3, November 1970

LAW STUDENT CLINICAL WORK IN PRISONS AND JAILS

The first in this year's series of clinical education workshops was held at CLEPR's office on October 16 and 17. Participants in the conference were: Professors David Wexler of the University of Arizona, Jose Villares of the University of Puerto Rico, William Traylor of Emory, Raphael Guzman of the University of Arkansas, Herman Schwartz of the University of Buffalo, and the Honorable Ellis MacDougall, Commissioner of Corrections of the State of Connecticut. Also attending was Miss Marjorie Gelb of the University of Connecticut.

Representing CLEPR was its president, William Pincus, and its program officer, Peter Swords. The workshop was organized and written up by Professor Lester Brickman of the University of Toledo.

Unlike earlier workshops devoted to the general subject area of clinical education, this workshop was concerned exclusively with clinical programs in correctional institutions. The participants, as illustrated by the following description of programs, reflected a wide range of background and clinical experience.

Emory has a required one credit hour Legal Aid Clinic with two components: a Neighborhood Law Office (funded by O.E.O. Legal Services), and a Legal Assistance to Inmates project. The ten students enrolled in the prison project interview inmates. Each then writes up a report on what he has found and sets forth his recommendations. After the report and recommended course of action are discussed with the Director, the student returns to the prisoner to report the advice. Each student is further required to prepare one motion or petition as part of a supporting memorandum in a post conviction case. Two related three credit seminars are offered: preparation for clinical work is provided in the Post Conviction Remedies Seminar; in-depth discussion of current and prior cases takes place in the Legal Clinic Seminar.

Under the Georgia student practice act, third year students can appear in court. The federal court, sitting in Atlanta, permits students eligible to appear in state court to appear before it also. The court has reacted favorably to the program since student-prepared petitions screen out frivolous issues which otherwise would require the court's attention.

The Legal Assistance to Inmates project began in 1967 at the federal prison in Atlanta with the help of a National Defender Project grant. Under the terms of the agreement with the prison, the program accepts applications for legal assistance that come through the prison's social workers. The prison agreed to provide a separate room for the law students and

clerical help from among the prison population.

The first suit filed by the program was against the warden of the prison and established the right of the jailhouse lawyer to represent inmates until such time as the prison itself came up with a more adequate method of providing legal assistance. The second suit was also against the prison and abolished the practice of automatic prison recognition of state detainers regardless of the validity of the detainer. As a consequence, the relationship between the program and prison has become strained and neither the separate room nor the clerical help have ever materialized. However there have been no substantial problems with regard to referral of prisoners to the program. To the contrary, the program has been overwhelmed with so many requests for assistance that it has had to concentrate on pressing post conviction relief cases to the virtual exclusion of the whole range of civil legal problems of prisoners - a departure from the program's original intent. So intense has been the demand that the program has ceased accepting individual detainer actions. Instead it has devised forms which the prisoners can fill out to demand a trial and, in the alternative, to have the detainer quashed - a procedure established in a former federal court proceeding.

The University of Connecticut has complemented its existing civil clinical program with a separate criminal law clinic. The latter has two phases: a prosecution program in which twelve students are enrolled and a criminal defense program with seventeen students. Students in the clinic engage in a wide variety of activity including public defender and corrections work. The corrections phase includes post conviction relief and habeas corpus representation, representation of prisoners' rights litigation. A two credit seminar which meets weekly is a part of the clinical program.

One of the probelms encountered by the Connecticut program results from the attempt to give each student one habeas corpus case which he can handle from beginning to end. Only a very small percentage of initial applicants for habeas corpus end up at the hearing stage before a federal judge. Two recommendations were made by the conferees. One was that before any such case was assigned to a student it would first be pre-screened by a board of experienced clinical students that would separate out the clearly frivolous from the possibly meritorious. A second suggestion was that students treat each petition for habeas corpus as an invitation to inquire further into the prisoner's legal problems. Since one third or more of all prisoners have detainers outstanding there should be no problem in having student-inmate encounters yield a rich clinical experience.

There are three prison-related programs at the University of Buffalo. The oldest is a traditional legal aid clinic which provides students with some contact with prisoners who seek assistance from the local Legal Aid Society, although work with prisoners is only a small part of the total activity of the students in the clinic. Three hours of credit are awarded for participation in the clinic and seminar to the thirty five students enrolled.

A second focus of activity has been made possible by a grant from the Council on Law-Related Studies. An inter-disciplinary project is underway involving Schools of Law, Social Work, and Education with the School of Medicine expected to participate in the future. A team made up of students from each of these disciplines seeks to provide

assistance to persons in the local jail, all four hundred of whom are being detained pending trial. The team also runs a bail release project, gives assistance to prisoners' wives, and provides a means of communication between the prisoner and his lawyer.

The third project is exclusively concerned with prisoners' rights litigation and is less a clinical program than a law reform undertaking. Twelve carefully selected students, some of whom have taken a seminar in correctional law the previous semester, are researching prisoners' rights issues. The research is culminating in a series of lawsuits. Among the issues being worked on are a wayward minor statute - the constitutionality of which is being attacked, a class action alleging a discriminatory denial of parole for war resisters, improper forfeiture of "good time", and the general problem of medical rights of inmates. Students are assigned to these cases in groups of two or three and work through the entire case.

The University of Arizona runs a Post Conviction Legal Assistance Clinic which was established two years ago. In setting up the program it was stipulated by prison officials that representation would not be provided in civil cases nor in areas concerning internal prison discipline. The program is run at the state prison and the legal issues raised include habeas corpus, detainer, sentence computation, sentencing errors, delayed appeals, and related issues. Notices have been placed in the prison indicating the availability of legal services. Prisoners mail their requests for assistance directly to the clinical program and are not screened by any of the prison's social work staff.

The program is offered each quarter and enrollment is limited to eighteen students. It is directed by a full time staff member (teaching associate) of the law school. The clinical component, for which no academic credit is given, is integrally connected to a weekly two hour seminar for which two hours of credit are awarded. Many of the assigned readings are contained in a "casebook" which is composed of cases and materials relevant to the representation of prisoners in Arizona. Chapter headings include: Risks in Seeking Relief, Local Procedures, Habeas Corpus, Detainers (and how to attack them), Guilty Pleas, Retroactivity, Length of Imprisonment, and Sentence Interpretation and Computation. (Professor Wexler who teaches the seminar has a grant from the LEAA to prepare such a casebook for nation-wide use.) Current clinic cases are discussed as well as pedagogically significant prior cases which have been preserved for use as teaching materials. These latter cases are taught through a "problems approach" orientation. The broader policy question of prison reform together with ethical questions on inmate representation are also discussed.

A student practice rule has just been enacted so third year students in the program will henceforth be able to represent prisoners in court. Prior to enactment of the rule, when a case appeared headed toward trial, a private practitioner was solicited to be the attorney of record. Because the Clinic has produced a number of alumni who are practicing in Tucson, it is anticipated that this device will still be used since it is presumed that Clinic alumni will furnish better than adequate supervision of students.

The University of Puerto Rico has long maintained a Legal Aid Society on campus in the form of a Legal Aid Clinic which is mainly used by the neighboring urban population. A CLEPR financed activity of the Clinic is a clinical program begun last February which is

centered at the state penitentiary. In order to obtain the requisite permission from prison officials, it was necessary for the program to sign a contract with the Secretary of Justice stipulating the program would not get involved with internal prison affairs, especially disciplinary matters. If prisoners present such complaints to the students, the program can attempt to deal with these matters informally, but it is specifically prohibited for the program to represent the prisoner in court on such an issue. Most of the representation provided is in the area of revision of sentence - mainly, post conviction relief.

The prisoners do not have direct initial access to the students. All contact is through the prison's social workers who "must approve the request" to see a student lawyer. Once the contact is established, the students can go back to the prisons to converse with the prisoner as the need arises. However, it is feared that the chain of access may be creating a credibility problem insofar as the corrections program is concerned.

The fourteen students enrolled in the program are required to spend a minimum of two hours a week at the penitentiary though, of course, most end up spending considerably more time. For this reason, the three hours of academic credit awarded is resented by the students who regard it as insufficient. The students also have a two hour weekly class meeting at which they discuss the cases they are working on, as well as occasional individual meetings with the Director. The scope of the program has recently been expanded to include representation of juvenile prisoners as well.

The University of Arkansas has two clinical corrections programs. One, in which four students participate, is funded by the Federal Judicial Center. The students spend one afternoon every second week at the federal penitentiary handling criminal matters. The inmates are "screened" in the same manner as in the Puerto Rican program - through the prison social workers. The bulk of the legal problems so far encountered have been in the detainer area and in attempts to withdraw pleas of guilty. Surprisingly, few sentencing problems have been raised by inmates.

The students arrive at the prison at noon, set up a private office on the prison grounds, and interview inmates until five o'clock. Students then return to the law school (250 miles distant) to research the case and draft a letter to the inmate indicating what future action, if any, is contemplated. If pleadings are prepared, they are signed by the prisoner in his own name. Students do not do any in-court representation and do not receive any academic credit for their work.

The second program involves representation at the state prison - also 250 miles away from the law school. Funding was originally provided by the National Defender Project and is now supported by the State Department of Corrections. A small group of male students spend the entire summer in residence at the prison and are paid at the same salary levels as other state correctional employees. An attempt was made to rotate students so as to enable a larger group to have the experience, but this was rejected after trial. It was found that it took the students a month before they could settle in, overcome their own fears, gain the confidence of the inmates, and become effective. Bringing in a new group of students after only a month prevented any group from ever taking hold. The students handle the whole spectrum of prisoners' problems including those denoted as "social." For example, in order for a prisoner to gain release on parole, he must have a job

waiting for him so students assist in job placement. Representation on criminal issues is substantially identical to the federal program. There is no classroom component and no academic credit is given.

For reasons common to most prisoner programs, but especially in view of the instant funding source, when an inmate seeks assistance on a matter relating to the internal administration of the prison, he is put in contact with the ACLU or a volunteer lawyer. Students follow up this referral by doing the necessary research for the attorney of record.

After listening to the description of the projects represented, several conferees observed that the educational aspects of the programs were in some cases not the primary factors at present - that social services and social science experimentation were emphasized. Most participants felt that while small experimental programs concentrating on social rather than legal aspects of the correctional process were a proper undertaking for law schools, such ventures are warranted only if the law schools also provide clinical programs in which legal skills and clinical education are the principal focus.

Another problem noted was student frustration when representation of prisoners does not produce tanglible results during a reasonable time span. Some legal programs involved such a long and drawn out process that by the time the case had been concluded, the student had graduated. Students are disappointed by the absence of felt rewards (the knight-in-shining-armor motivational syndrome) and therefore tend to lose interest in such a clinical program. To provide such immediate rewards, one participant thought it desirable to add to clinical programs such "social" activity as finding a prisoner a job so that he can be paroled - or arranging for him to be transferred to a different type of detention institution. Some of the participants responded that the lack of immediate reward was very much a part of the real world and should therefore not be artificially eliminated. Another response was that instead of finding jobs for prisoners, students should be attacking a prison system that does not have a sufficient number of social workers whose function it is to locate jobs for paroled inmates. "To make the system do what it ought to be doing" would provide the greatest reward of all to the clinical students.

One participant recommended as a model format for correctional clinical programs that students sit in at the reception center where newly arrived prisoners are checked in and prepare an inventory of their legal problems. The incoming prisoner would be told how much time he has to take an appeal or have the length of his sentence reviewed, whether there are any detainers outstanding or other legal matters that might require immediate attention. In addition the student could inquire into the prisoner's civil problems and inventory them as a first step in a total rehabilitative process.

Several conferees indicated that they were planning to publish a column in their respective prison newspapers surveying recent legal developments of interest to the inmates. While most corrections programs find themselves overwhelmed with cases, there exists a nagging fear that many prisoners with justifiable legal grievances are not being reached. Often when the clinic obtains a judgment on a heretofore relatively unknown point of law, there is a sudden increase in requests for assistance from prisoners whose case is covered by that "new" point, but who were not before aware of the existence of such a legal right.

One program is planning to offer a course in law to be taught to prisoners by law students in the clinical program. The projected benefits listed included an increased learning experience on the part of the students (on the assumption that to teach a course you must first learn the material thoroughly), a substantial reduction in frivolous claims by prisoners (on the theory that prisoners would "shotgun" less if they knew more), and an input of unknown proportions into the prison's rehabilitative services.

As a further development of this thesis, it was suggested that a much more intensive curriculum be offered to jailhouse lawyers to enable them to provide better legal services to inmates. Prison officials tend to look askance at jailhouse lawyers, ostensibly because they sell their services and make other prisoners beholden to them. The class structures that exist among prisoners are regarded by prison officials as inconsistent with proper security considerations. Moreover a rule that one prisoner could not charge money for legal services provided for another prisoner is almost wholly unenforceable. One method of circumvention involves the jailhouse lawyer telling his client the cost of his service. The client then instructs a friend outside the jail to pay over the designated amount to the outside bank account of the jailhouse lawyer or to a fourth party designated by the jailhouse lawyer. When this fourth party informs the jailhouse lawyer that the sum has been paid, the service is then rendered. So developed is this process that many jailhouse lawyers have a standard retainer for each of several types of cases and an established fee which is paid in periodic installments according to the progression of the case.

Conceding these factors, several participants still advocated the training, claiming that a hierarchical class structure exists anyway and that it should be used to benefit the prison population. The crucial decision is bound up in the selection process. If competent, non-manipulative types are selected, many problems can be obviated, and by purposely conferring training and status, the payment of fees may be more controllable. A certification procedure should be set up to screen out the incompetents and perhaps, by this process, establish professional norms - canons of ethics - that would include a prohibition against accepting a fee. Given a selection, training and norms the jailhouse lawyer should then be given offices, typewriters and clerical help and paid by the prison just as prison industrial workers are.

The training of jailhouse lawyers could be a two-way street for clinical legal education since trained jailhouse lawyers could provide invaluable assistance at orientation programs for new clinical students. Several conferees emphasized that some jailhouse lawyers knew more than outside lawyers about criminal law, let alone more than the students. All agreed that there is not only much to be learned but a great deal of benefit to be derived from a closer relationship with the jailhouse lawyer. The real problem, however, is how to facilitate such a relationship since prison officials to date have gone so far as to place prisoners in segregation if it is learned that they are practicing jailhouse law.

The discussion of the jailhouse lawyer raised in a specific sense the generic issue of the special problems of correctional clinical programs. Several were discussed. The purely physical problem of communicating with one's client was repeatedly raised: It is usually impossible to call a prisoner on the telephone; many schools are located miles from the prisons; and once the student has arrived on the prison grounds considerable time elapses before he makes contact with the prisoner. The distance problem in turn creates a financial problem since travel costs for students rapidly mount up to sizeable sums. Logistical

problems are exacerbated by transfer of prisoners to different institutions without notice to counsel. It is not uncommon to lose touch with a prisoner-client for several weeks at a time due to his transfer to another prison.

In addition to the physical problems, all the conferees voiced considerable concern over the relationship between the clinical corrections program and prison authorities. The clinical directors present felt that prison officials regarded them with suspicion if not outright distrust and that these views were carried forward to the point of denying the clinical programs such simple amenities as a private conference room or uncensored mail betwen prisoner and program. But these problems paled in the face of more programatically crucial deprivations such as lack of direct access to prisoners, no access to guards, nor responsiveness to representational efforts on behalf of prisoner-clients and even denial of access to the prison grounds itself. One problem, developed in some detail by one participant, is that often letters mailed by prisoners to a clinical program located in the same city arrive as much as seven or eight days after they are written. Some disciplinary measures (e.g., solitary confinement, segregation, deprival of privileges or medical care) may have terminated by the time the letter arrives. It was felt that the slowness was directly related to the prison's censorship program; the more inefficient the program, the greater the delay.

In response, it was pointed out that prison officials labored under serious, if not impossible, conditions. To politicians, the only sign of a successful prison administrator is the absence of riots and other attention-demanding confrontations. Rehabilitation, even if wholeheartedly supported by prison officials, rates at best minimal monetary support on legislative levels. Thus, correctional programs of any type that involve representation of prisoners are looked upon as a potential threat to prison security and hence the security of prison officials.

In the context of these understandings, several ideas were advanced. One participant strongly advocated a sharp dichotomy between post conviction representation and representation on matters of internal prison discipline. Reasoning that a successful clinical program requires access to prison records and documents and other manifestations of cooperation between program and prison officicals, he concluded that it was in the best interest of the clinical program to deny itself involvement in the so-called prisoners' rights area and that all of the latter cases should be referred out to the ACLU or interested private practitioners.

Another took the opposite tack, arguing for meeting the problem head on. If the prison denies the program access to the prisoners, the proper response should be to bring suit. Observing that programs which had contracted with prison officials to restrict representation so as not to include areas of internal prison affairs had nonetheless gone forward in varying degrees and actually represented prisoners in these forbidden areas, he added that to his knowledge no program had yet had its license to practice law at the prison revoked.

A middle range of sentiment sought to establish means of cooperation between correctional programs and prison officials that would redound to the benefit of both. Most prison officials are anxious but unable to obtain necessary appropriations from state legislatures; such officials could "use" the clinical program to obtain increased funds through appropriate law suits brought against the prison. Such law suits could enable prison officials to go to

their respective legislatures and seek increased funding on the grounds that courts have ordered additions to their medical personnel or rehabilitative staffs. Law suits could establish that the antiquity and over-crowded use of certain facilities constitute violations of the Eighth Amendment's prohibition against "cruel and unusual punishment" thereby enabling the prison officials to seek capital improvement funds. Finally, clinical programs could, with the assistance of prison officials, prepare legislation for the improvement of prison procedures which could then be disseminated to legislative committees and to interested groups throughout the state.

A second major area of cooperation would involve student interns working under the supervision and direction of prison officicals. The students would even represent the prison authority in law suits brought by other students in the clinical program. This "peace offering" might serve to break down the warden's resistance to allowing students access to internal prison processes and could in turn be used as a bargaining point to extract concessions from prison officials with respect to other operational elements of the program. Moreover the clinical program itself would be substantially benefited by the increased awareness on the part of student participants of the "whole picture." The student interns might prepare a "Youth Corrections Act" which would be responsive to the needs of both the prison and society and which the commissioner of corrections could then present to the legislature as his response to a pressing problem. Clinic students could then gather data and testify in support of the proposed legislations at committee hearings.

It should be stated that more than any other point, the workshop pointed up the need for more contact between clinical corrections programs and prison officials. The workshop participants agreed that a conference should be held to this end as soon as possible. After broaching the broad areas of concern, the conference could then break up into small groups of workshop size to permit the kind of frank contact that will contribute to the elimination of much of the misunderstanding and suspicion that now exists. At such a conference, when one prison official hears directly from another that a particular clinical program has worked out well in spite of his fear of unknown consequences, it will have a much greater impact than if the same message were transmitted via the clinical director.

Although it is natural for a workshop to focus on common problems, it should be emphasized that the conferees all agreed that corrections programs are potentially outstanding clinical media. It is difficult to match the opportunities offered by clinical work in jails and prisons for acquiring legal skills such as interviewing, counseling, drafting negotiating and litigating; for testing one's mettle as a professional in the cruellest of tensions between justice and injustice, and with such alienated and outcast clients; and for achieving a sense of satisfaction from working for improvement where the rest of the society is unconcerned. Another important feature is that the law school itself runs the program rather than farming out students to outside agencies. By supplying the supervision directly, the law schools can assure the requisite educational content - the sine qua non for clinical education.

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Vol. III, No. 4, January 1971

REPORT ON SECOND CLEPR WORKSHOP

The second in this year's series of CLEPR workshops on clinical legal education was held at the University of Texas in Austin on November 6 and 7, 1970. Participants in the two day conference were: Professors Walter W. Steele of Southern Methodist University, Harold Bloomenthal of the University of Wyoming (Wyoming Legal Services Office), Donald Rowland of Washburn University, Donald King of St. Louis University, Ralph Thomas of the University of Tulsa, Dean Otis King of Texas Southern University, and Miss Barbara Anne Kazen and Patrick Hubbard of the Community Legal Services Program of the University of Texas. Attending as an observer was Professor John J. Sampson of the University of Texas. Dean Page Keeton welcomed the group to Austin.

CLEPR was represented by William Pincus, President, Peter Swords, Program Officer and Betty Fisher, Administrative Assistant. The workshop was organized and written up for CLEPR by Professor Lester Brickman of the University of Toledo.

The programs represented at the workshop displayed a substantial diversity. Many, including Wyoming, Texas, Washburn, St. Louis and Texas Southern are supported by CLEPR grants. A state bar association project in Oklahoma involving all of the law schools in the state was aided initially by a CLEPR grant. Information presented at the workshop on such topics as student enrollment, course credit, teaching credit, classroom components, fieldwork and methods of supervision may be of considerable interest to readers of the CLEPR Newsletter and is therefore set out in detail in the description of each program.

The clinical program at Texas Southern consists of a clinical director and one staff attorney who has field line responsibility for the running of the program. The director has a half-time teaching load and receives four hours of teaching credit per semester. The staff attorney is a one-third time faculty member who receives two semester hours of teaching credit.

The law school is located next to a large public housing project and the neighborhood law office just opened at the law school does not anticipate any lack of clients though, as yet, no caseload problem has developed. In the event the caseload does become too heavy, it is intended to refer clients to the OEO-funded Houston Legal Foundation.

Students are required to put in at least eight hours per week at the neighborhood law office.

They receive three hours of credit per semester for their clinic work and may participate for a total of two semesters. Ten third year students are enrolled in the clinical program. Approximately thirty students are anticipated for the spring semester and at least that number will be enrolled each semester thereafter.

The Community Legal Services Program of the University of Texas is staffed by a director who holds the title of Lecturer at the law school, four other attorneys, and a social worker. Twenty seven students are presently enrolled in the clinic and in a required seminar which is under the supervision of a clinical professor. Students receive one hour of credit per semester for the fieldwork and two hours for the seminar. They are required to enroll in the three hour program for two semesters. The first semester seminar meets for two hours per week and is designed to qualify students to deal with typical legal problems encountered in the day-to-day operations of the Community Legal Services Program (CLSP) at its neighborhood law office in East Austin. Coverage of the seminar includes both relevant substantive law and the mechanical and procedural processes of CLSP operations. The second semester seminar is of a more conventional variety: students are required to write a research paper on a legal issue related to their clinical work which will be of some utility to the neighborhood law office and its clients.

At the beginning of the year the student is provided with a detailed handbook which lists the various procedures to be followed. The student's casework is closely supervised by a staff attorney though as he becomes proficient, the supervision is reduced. Attorneys are always available for consultation with students. If the court and opposing counsel have given their consent, the clinical student is allowed to appear in court accompanied by a supervising attorney. (There is as yet no student practice rule in Texas.)

CLSP operates substantially as a Legal Services office though its funding does not come from OEO but from a multiplicity of sources including several foundations and the law school itself. Eligibility of clients is determined by pre-set financial guidelines. While as in most neighborhood law offices, family cases predominate, there is a determined effort to engage in more complex and challenging problems. These include landlord-tenant and consumer credit cases as well as law suits involving tenant unions, public housing, urban renewal, and highway construction. Students participate in these suits at all levels - from looking up court records and drafting complaints and memoranda to attending community meetings. CLSP has received substantial assistance from the Schools of Architecture and Sociology in an urban renewal lawsuit prompting some hope for continued interdisciplinary efforts on a regular basis in the future. In the spring semester, students from the School of Social Work will be attached to the CLSP office and will be supervised in part by their own faculty though they will participate in the law school seminar.

Clinical legal education at St. Louis University began in 1967 with a grant from CLEPR's predecessor, the Council on Education for Professional Responsibility, for a clinical program in juvenile law. Students who enrolled in this program attended a seminar in juvenile law which included interdisciplinary participation by psychologists, social workers, and psychiatrists. Two hours of credit were awarded for the seminar which was offered in a two semester package. The clinical phase included attendance at a juvenile hearing followed by the handling of a juvenile case. Almost from the outset there was an overabundance of cases. Students were able to interview clients, witnesses, social workers and family

members. When the Juvenile Court requested assistance with the handling of prosecutions, the program had to demur because of the absence of the requisite supervisory staff. After two years of experience a legal aid clinic was begun in cooperation with the Legal Aid Society of St. Louis. The latter designated one of its attorneys to work part-time at the law school in a teaching and supervisory role. A conflict in objectives between the law school and the Legal Aid Society led to the abandonment of this clinical experiment.

With the assistance of a grant from CLEPR, St. Louis proceeded to a multi-faceted clinical program, retaining its juvenile law component. Two clinical professors were added to the faculty to direct the new programs. Added to the curriculum was a two hour Law and Poverty course and one hour clinical components to supplement the Estate Planning and Practice Court courses. Under the clinical program, students work in the offices of Legal Aid, the Public Defender and other public agencies. Three persons are therefore involved in the development and training of each clinical student: (1) the attorney at the agency to which the student is assigned, (2) the clinical director who supervises the student, and (3) the faculty member who teaches the course.

St. Louis University was recently selected to be the National Juvenile Law backup Center for OEO Legal Services programs. The Center staff consists of seven lawyers and fifteen student research assistants. Consideration is being given as to how the Center can integrate clinical activities into its structure. Since one of the Center's functions is the training of OEO lawyers, the experience gained may be useful in devising means for the training of law students. Moreover the passage of a student practice rule which is to become effective February 1, 1971 will undoubtedly influence the structure of clinical legal education at St. Louis University.

The University of Wyoming has a single clinical program which encompasses both the Legal Aid program and the Defender Aid program, though each has a separate full-time faculty director. The students participating in the clinical program are expected to engage in both of these activities, although at any particular moment the clinical students are assigned to one program or the other. Since the Defender Aid program has been in existence for several years and has a substantial backlog of cases, that program presently engages the services of a larger number of students. A Legal Aid program has only just begun and fewer students are presently involved although the intent is to provide students with a substantial exposure to both the Legal Aid and Defender Aid components.

Wyoming has a liberal student practice rule and it is the intention of the program to utilize this rule to permit most of the trial work involved to be handled by the assigned student. However, consistent with its philosophy as to the teaching function of the program, the faculty supervisor will work closely with the student in connection with the trial preparation and will ordinarily appear with the student at the trial. While there has been some resistance from the local judiciary with respect to student appearances in the past, it is believed that sufficient public relations efforts and close faculty supervision of student activities will dissipate this resistance.

The philosophy of the clinical program is to meet the legal needs of the poor in Laramie while at the same time supplementing the students' legal education with clinical experience. Thus, a high degree of faculty supervision is required. Procedures have been established

to require students to reduce to written form substantially all of their work product including interviews, telephone calls and research information. Because of a light case load, it has been possible to assure faculty supervision of each step in the process of servicing the client. The students ordinarily conduct the initial interview and, based on that interview, prepare an initial report setting forth the substance of the interview and recommending the specific work to be accomplished both in terms of fact investigation and legal research. The supervisor then reviews the report with the student, and based upon this discussion, the particular work to be undertaken is determined. Subsequent work by the student is reflected in the form of memoranda which are reviewed by the faculty supervisor and a student director. The student director is primarily responsible for seeing that necessary work is undertaken diligently, and the faculty supervisor is responsible for the substance of the work undertaken and for determining with the assigned student additional appropriate steps to be taken.

Nineteen senior students (out of a senior class of 35) participate in the program and are awarded two hours of credit per semester for two semesters. In addition, eleven juniors participate on a purely voluntary basis.

One of the problems the program has encountered has been establishing satisfactory relationships with the local bar association which co-sponsors the program. Due to initial opposition from a group of local lawyers, compromises in the areas of eligibility and excluded cases had to be worked out. Procedures were thus established that give the local members of the bar a very substantial if not paramount role in determining general policy. It is too early to assess the effects of these arrangements on the clinical program.

The Legal Aid phase is presently being expanded to include civil legal assistance to prisoners in the state penitentiary at Rawlins. The Defender program has heretofore been assisting such prisoners with their post-conviction and related criminal law problems.

The Southern Methodist University Legal Clinic, located at the law school and funded out of the law school's budget,has a staff of six: a director, a faculty supervisor, two secretaries, a student chief counsel (on a half-time scholarship), and a student deputy chief counsel. The director is employed on an annual contract in an administrative capacity and is responsible for supervising the students in their performance of legal tasks. The faculty supervisor is primarily responsible for the overall academic content of the clinical experience. His responsibilities include teaching two clinic classes a week plus the integration of academic content into the daily casework routine of the student.

All senior students not in academic difficulty are eligible as are junior students who are above a certain grade point average. In his first semester, the student attends a weekly one hour class which deals with the practical aspects of law practice including the drafting of pleadings, interviewing techniques, the economics of law practice, principles of office management, and the roles of courthouse functionaries. The emphasis is on practicality with the teaching being done by the clinical director. There is no direct client contact. Upon successful completion of the first semester, which is determined by the taking of a written pass-fail examination, the student enrolls in a second semester. It is at this point that he interviews clients and begins to handle their cases. Client interviews are videotaped (with client approval) and then critiqued by the faculty supervisor a few days later.

The clinic handles all types of cases with the exception of bankruptcies, including a limited number of post-conviction relief matters for inmates of the state penitentiary. Client eligibility standards are similar to those set by other legal aid operations in the Dallas area. If the student successfully completes the two semester package he receives three hours of credit, but if he fails to complete both semesters, he receives no credit. Forty five students are enrolled in the first semester group and thirty five in the second.

Though there is no student practice rule in Texas, many judges allow the SMU students to appear in court provided the clinical director or another attorney is present as supervisor.

The clinical program at the University of Tulsa is part of a statewide program organized by the Oklahoma Bar Association. Under the Oklahoma student practice rule, students can appear in any civil case involving up to $2500 and in any misdemeanor which is not predicate to a felony. All three law schools in the state award two hours of credit for participation in the program and each has designated a member of its faculty as "clinical director."

The clinical director at Tulsa teaches approximately six hours per trimester in addition to his supervisory responsibilities. Students who are within thirty hours of graduation may enroll for up to two trimesters. The twenty one students presently enrolled devote approximately fifteen hours per week to field work. Student clinical work is performed in governmental agencies (Legal Aid, The Prosecutor's office, the Attorney General's office) and in the offices of private practitioners. In addition to their academic credit, students may be paid by their employers. Most law firms pay students at a $2.00 per hour rate. The private practitioners who participate do so on a voluntary basis and the only requirement imposed by the student practice rule is that the private lawyer have been in practice for at least five years.

The clinical program at Washburn University was formerly run exclusively by students on a voluntary basis. A student bar association legal aid committee coordinates the activities of fifty one students (out of a senior class of seventy seven) who are involved in one or more clinical programs. The Washburn program, with the assistance of a grant from CLEPR, is in a transitional state to a credit and school-supervised status.

Twenty three students have signed up to spend a few evenings in police patrol cars; eleven students are spending at least four hours per week as clerks for judges in Shawnee County; nineteen students spend one day at the state penitentiary; and twenty one students under the supervision of Washburn's clinical director are manning five community action program neighborhood centers and provide legal services to walk-in clients.

A second student bar association committee runs the juvenile probation program under which twenty nine students are acting as probation officers for juveniles. Twelve of the students have completed an orientation course and have begun making pre-sentence reports to the courts. The committee meets once a month and the format includes participation by juvenile judges who give the students an overview of juvenile and probation problems as well as sessions with juvenile and adult probation officers and persons from the Menninger Foundation. There is also an actual juvenile trial held at the law school.

A new part of the program is a civil legal aid clinic, a criminal prosecution clinic and a

criminal defense clinic. Enrollment totals eleven students and one hour of credit - the first ever given - is awarded.

Historically most senior law students at Washburn have worked in a downtown law firm as law clerks. Students rely heavily on this source of income and have accordingly resisted the institution of a clinical program that has attempted to substitute academic credit for financial remuneration. Faced with this situation, Washburn has opted for designating the private practitioners who employ senior students as supervisors.

A student practice rule exists which requires that the Dean certify which students are eligible to practice under the rule. Six students who work for private practitioners have been certified. The students meet with the clinical director once every three weeks for one hour.

Recommendations to award up to four hours of academic credit are being prepared and if approved by the faculty, it is hoped that there will be less reliance on the private practitioners for supervision.

In addition to the programs already mentioned, students participate in several other programs, though none are for credit. Included are internships with the county attorney, the juvenile court, the Attorney General, an assistant Attorney General with responsibility in the consumer protection area, and another with responsibility for pollution control.

Although not intentionally sought, the programs represented at this CLEPR workshop reflected a somewhat different organizational pattern from that in prior workshops. There was more participation by bar associations and private practitioners. This was especially true for the programs at Wyoming, Tulsa and Washburn. As a consequence, part of the workshop was given over to a discussion of such issues as: What dangers ensue from bar association control of selection of cases, and; Can the private practitioner supply adequate supervision to the clinical student.

The Wyoming program illustrates the bar association issue. A client who walks into the downtown Wyoming Legal Services office first has his financial eligibility determined. The standard is $45 per week take-home pay plus $10 for each dependant. If eligible, the client then chooses a lawyer from a list of Laramie attorneys and at a subsequent appointment, the lawyer selected interviews the client. The clinical student is normally present at the interview. The lawyer then makes two determinations: First, whether the case is one that the law school is permitted to accept (most divorces, bankruptcies and all fee generating cases are excluded from this category); Second, whether the client is entitled to some form of legal relief (if his case is thought to be frivolous, the attorney might reject it). Only if both determinations are affirmative can the law school proceed to represent the client. With one member of the bar involved to some degree in each matter handled by the office, it is apparent that this involvement can have varying impact depending upon the situation and the attorney. In some instances participation of the practicing attorney has been extremely useful, particularly by giving the student an opportunity to observe an experienced attorney interviewing a client.

The role of the private practitioner in clinical legal education is still undetermined. Many schools are reluctant to even explore possible uses as an aftermath of unfortunate experi-

ences with the preceptorship and clerkship programs that several states used to require for entry into the bar. Yet as pointed out by several participants, the cost of clinical education - at least in its present largely experimental form - virtually demands such exploration. This is particularly true if the goal is to provide an opportunity for a majority of the student body to have clinical experience. Incorporating the private bar into the supervisory process would surely reduce cost. But it would first require a pedagogical decision as to workability. Several of the participants felt that the whole matter should be approached with caution. Others ventured that since many capable lawyers would like to teach and would work for comparatively little remuneration as part of a law school faculty, the situation at least merited some innovative efforts. One such effort, deriving from the medical school model, was briefly explored.

This discussion led into the issue of faculty politics with the focal point being the selection and appointment of the law school professor (or as one participant put it, "the care and feeding of professors"). Selection criteria are often mentioned as a stumbling block to the hiring of the clinical supervisor. This is at least true when it comes time to determine the faculty status of the clinical personnel. Most of the participants at the workshop, based upon their personal experience, felt that these problems could be resolved with minimal difficulty. However, less confidence was expressed as to the hiring of a sufficient number of supervisory personnel for the clinical program. Here it was felt that under the guise of academic freedom, some faculties were resisting the hiring of sufficient clinical personnel claiming the faculty slots were needed for other courses. One participant expressed the view that while it is one thing to claim the need for freedom to devise whatever curriculum it desires, it is quite another to allow a faculty to resist change solely for the preservation of traditional prerogatives.

This discussion of the clinical supervisor was very lively. While all agreed that supervision was the keystone of the clinical arch, several felt that supervision of a law school clinical program required two separate and distinct persons - a faculty member perhaps denoted as "clinical director" and a practitioner denoted perhaps as "clinical professor." Such a team approach, it was pointed out, had many desirable features, especially in view of certain of the political realities that were discussed.

For one thing, it is seldom that a law school faculty member will commit himself to undertake a specific teaching mission including the operation of a clinical program on a long range basis. While many professors do in fact devote significant portions of their careers to an area of the law, they tend to do so in an area already established and recognized. Also many law school teachers would not agree to direct a clinical program unless it was clear at the outset that they could go on to other interests when and if they felt the urge. The team approach thus recognizes the law professor's desire to be relatively free to move from Future Interest to Federal Jurisdiction or from Legal History to Law and Poverty. Not really discussed was why any such special concern for flexibility in future assignments is present among some law teachers.

Moreover, the responsibility for a full and active caseload (what we might call the attorney-of-record syndrome) for all but a few individuals is incompatible with the maintenance of any major teaching responsibilities. If the clinical professor has field line responsibility for the handling of clients' cases, it removes the largest single burden of clinical supervision from

the director's shoulders. This would then permit the director to devote his fullest efforts to development of the classroom component and to integration of the classroom component with the field experience. Contributions to clinical education through such an arrangement remain to be developed. This arrangement further recognizes, though it does not condone, the reluctance of some faculties to confer faculty status on persons who have practiced instead of published - though from the point of view of other credentials, the practitioner-teacher has all the requisite ingredients for admission to the faculty.

The question of who the clinical professor should be remains unresolved. Some participants opted for the recent graduate who has spent his two or three years in practice working in a Legal Services program. Others agreed provided he graduated high in his class and was on law review. Another point of view expressed was that present faculty members ought to be encouraged to take on the directorship of a clinical program for a few years. As for those who would be amenable to such an undertaking but who lack the practice background, it was recommended that they be provided with some opportunity to engage in a year or two of intensive practice in a public service agency at law school expense.

The team approach was further argued for as desirable because the practicing attorney (clinical professor), as a necessary response to his milieu of deadlines and case, client and court pressures, must often react to a situation on the spot and make a decision as a part of a litigative strategy without an opportunity for a "teaching" explanation. The clinical director could illuminate this decision juncture by explaining to the clinical students what was happening and then subjecting the decision to analysis in a classroom setting.

After laboring over the supervision issue, the workshop participants went on to discuss representation of particular classes of clients. Since many law school clinical programs are derivative of the legal aid model and involve the representation of indigents, the issue of whether one treats a poor client any different than a client able to afford counsel is often raised at CLEPR workshops. At this workshop, the greater role of the private bar cast the issue in a somewhat different light. Consider the indigent client with the $50 law suit who seeks legal redress in the courts. A private attorney would of course find the case financially unappealing. By marshalling its resources, the clinical program could not only provide representation but probably win the case if the case were one that a private attorney would not likely win. Such a situation gives rise to a number of professional responsibility issues of some concern. For example, is pushing the client's cause as hard as only a young eager clinical student can do a desirable clinical experience? Does this tend to distort the student's view of reality? Several participants felt the client should be represented with the special zeal of law students as at present but that these matters should be discussed in the clinical seminar. Others felt the distortion was of sufficient potential danger that in order to bring balance to the student's perspective every effort should be made to provide an opportunity for representation of non-indigent clients. It was noted, however, that most student practice rules use the term "indigents" to delimit the students' scope of activity and while the passage of the rule in a given jurisdiction expands opportunities for clinical legal education, it may not offer enough range in practice.

One participant noted that a more immediate was to compensate for the lack of balance inherent in the legal aid clinical model is to supplement the clinical work with videotape instruction in such skills as interviewing, counseling, negotiating, which involve middle-class clientele. In this fashion the student's range of experience could be widened.

COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC.

280 Park Avenue • New York, N.Y. 10017 • Phone (212) 697-6800

Vol. III, No. 5, February 1971

Introduction

Recently the University of Southern California Law Center, with the assistance of a grant from CLEPR, sponsored a three day Institute on Curriculum Reform and Clinical Education. Dealing with such topics as: Does Clinical Education Belong in the Law School; Reform of the Legal Curriculum; Remaking the Law School; On Teaching and Learning in the Professional School; and How Best To Do Clinical Education, the Institute attracted an audience of several hundred. On the third day of the Institute there was a panel discussion titled: Is Clinical Education Really Possible? Panelists discussed such specific issues as: The Cold Practical Realities of Financial Problems, Faculty Politics, Staffing, Allocation of Student Time, Placement Settings, and Grading. The opening speech was given by Professor Lester Brickman of the University of Toledo. We present a slightly edited version of Professor Brickman's remarks as the third in a series of essays discussing issues of concern to clinical education. In presenting a forum for the discussion of clinical issues, we again indicate that the views are those of the author and not those of CLEPR.

CLINICAL EDUCATION: POLEMICS AND PRAGMATICS
by Professor Lester Brickman

It being Sunday morning perhaps some of you would be more comfortable if I began with a sermon. It strikes me that in view of our California location it would be highly appropriate to select for our topic the biblical Joseph, whom you will recall was a famous coat designer known especially for his vivid plaids and checks. Joseph was also a dreamer and , more importantly, an interpreter of dreams. When Pharoah called on him for an interpretation Joseph responded with his famous seven years of feast to be followed by seven years of famine.

I suppose the lesson to be learned is open to some interpretation. Some of you may say that the prior two days of this Institute was the feast and that now comes the famine. And some of you, in view of the rather caustic remarks I have prepared, may wish to cast me into a pit or sell me off to wandering traders. As for myself, I would hark back to Joseph who, years after his encounter with Pharoah, was overheard telling his favorite camel: This is the last straw. Both literally and figuratively I bear the same tidings. This is the last panel before the self-designated skeptics give us their summary of the Institute later this morning. But based on what we have already heard I would suggest that the famine in legal education that many of the previous speakers addressed themselves to lies not in the land but in the minds of men.

Surely many of the conceptualizations of clinical legal education and statements as to educational goals frequently set forth in various issues of the CLEPR Newsletter would seem to have merited increased attention at this Institute. Moreover I was more than slightly dissapointed by some of the evaluations of clinical legal education presented earlier. None of those I refer to were based on anything approximating personal experience. To some extent it appeared that the less experience a school had with clinical education the more competent was its representative to render judgment. Perhaps the lesson to be learned here is that if we want our dreams interpreted we ought to bring them to an insomniac.

Most law schools are only a few decades removed from their struggle for acceptance within the general university community as a valid intellectual discipline. It is understandable that some of these schools tend to tread cautiously along the clinical path. This caution is amplified by the usual aversion to tamper with a curriculum, the basic principles of which have remained relatively unscathed by the passage of over half a century. Though the trend towards clinical education is clear, we see among some major and firmly established law schools signs of distinct reluctance to explore clinical education.

This hesitancy is seen most clearly in the ongoing debate in legal education over whether to award academic credit for clinical work, how much credit to award and what to require for that credit.

Clinical programs in their infancy commonly require a student research paper based upon the clinical experience. This requirement is a reflection of the law school's preoccupation with the academic content of its curriculum and is a manifestation of a faculty's inability to judge a student's performance except by the rather conventional criterion of a research paper. At yesterday's luncheon we heard a clinical psychiatrist state that what we law professors call teaching Contracts or Torts, psychiatrists call aggression. If Torts and Contracts are aggression, then the research paper is our security blanket.

While sympathetic to the concerns of my colleagues, I am not sympathetic with the unstated values these concerns signify. Rather than a letter or numerical grade, I would adopt a pass/fail system. My decision is predicated on a regard for supervision as being the keystone of the clinical arch. It is further predicated on the attainment of certain very specific educational outcomes from clinical education - outcomes which have been discussed in several issues of the CLEPR Newsletter. Because many of these outcomes appear as ability, not just as knowledge - synthesis rather than analysis - application of a pass/fail system is practicable.

A pass/fail system has the added advantage of eliminating a major barrier to the establishment of a senior-junior partner relationship between supervisor and student - a professional relationship which seems most desirable.

I regard the research paper as a cop out: a faculty statement to the effect that we do not know what clinical students will really be doing or what they will be learning. This fear is predicate to the demand that a research paper be a prerequisite to the credit-worthy status of the clinical program. I reject this fear as the product of intellectual blind man's bluff. The educational content ought to be structured into the clinical program in its origin, not appended to it by virtue of the research paper.

This is not to denigrate the value of the research paper in legal education. To the contrary. The clinical experience may be better integrated into the curriculum by offering a separate seminar to clinical students. This seminar would serve as a vehicle for the preparation of an empirically oriented research paper analyzing some phase of the legal process with which the clinical experience had brought the student into contact. For example, if the clinical program involves representation of clients before a small claims court, then a separate seminar examining the theoretical function and actual functioning of the small claims court would be worthwhile. This research effort need not be "pure" as opposed to "applied". It could result in memoranda and supporting data to judges, clerks, court commissioners, and other officials suggesting and encouraging reform. The possibilities are almost numberless.

As for the issue of academic credit, historically course credit in law school has been a determinant of four scientifically derived considerations. One of course is personality, that is, who taught the course in the past. A second determinant is teaching load. If X is the number of hours of teaching that is required of a faculty member and Y is the number of courses that can comfortably be taught by a school's reigning expert in a subject area and still allow him time for scholarly research and a priori judgments, then $\frac{X}{Y}$ equals the number of hours of credit a course is to be awarded. A third determinant is the number of hours of credit required for graduation divided by the number of semesters of attendance, versus the number of examinations per semester that seems desirable for a student to take. Algebraically, if R is the average semester hour load in a law school and S equals the number of exams in a semester that we can reasonably expect a student to take, then $\frac{R}{S}$ equals the number of hours of credit for the average course. Finally, while faculty discussion may center on the significance of a course or its merit relative to other courses in the curriculum, it is clear that these considerations play a minor role in determining the amount of course credit to be awarded. A vague rule of thumb often cited is that one hour of academic credit equals one hour of class time per week plus three hours of student preparation. Thus a three hour course is thought to require a total weekly time commitment of twelve hours by a student.

Clinical programs have not found their academic credit niche. Because the clinical supervisor is often not a full-fledged member of the faculty and if he is, is generally much less influential than the "reigning experts", then the $\frac{X}{Y}$ equation lacks applicability. If my pass/fail recommendation is implemented, then the $\frac{R}{S}$ equation lacks applicability. Obviously the kind of clinical program being operated and the time commitment sought from participating students is a key determinant. But about all that can be said at present is that we have not yet reached the stage of worrying about whether too much academic credit is being awarded.

Almost certainly too little academic credit is being offered by those schools which are enlightened enough to certify for credit those students participating in clinical work. This no doubt is a consequence of faculty indecision over the academic merit of clinical programs. Some very few faculties are so undecided that they have decided to offer no credit. They thereby seek to divorce themselves from any personal or intellectual responsibility for the academic component of the program.

In the long run the allocation of credit for clinical programs will be determined by pretty

much the same processes as result in the allocation of credit for other law school courses. That is, the push and pull of competing personalities and forces will be determinative. Ascertainable standards will arise only after the fact. But until the long run is upon us and allowing for the infinite variety of programs, a law school probably ought to offer three hours of credit per semester for a program that meets in classroom fashion for one to two hours per week and averages ten hours per week of fieldwork; four hours of credit for a two to three hour weekly meeting plus twelve to fifteen hours of fieldwork; and six hours of credit for a three hour weekly class meeting plus twenty hours of fieldwork. Where larger student input is envisioned, then consideration should be given to permitting the student to devote the entire semester to clinical work and either be awarded fifteen hours of credit - a normal semester's load - or else no credit but having his number of hours required for graduation reduced by a like amount.

Amplifying on this a bit further but departing even more from the realm of the objective, I would express strong feelings as to the minimum clinical exposure consonant with the inculcation of educational content. As I cannot prove my thesis, I announce it as declatory of fundamental truth: Students who spend less than fifteen hours per week in clinical work do not derive acceptable educational benefit from their exposure. While they may indeed be sensitized to the injustices of the legal system, their learning experience will be most limited. Until the requisite pedagogical and social science data are available, I can only offer a strongly felt if not compulsive feeling that absent a minimum fifteen field hour per week commitment, the immunological serum of clinical education will not "take". The student will feel the pinprick, but the clinical serum will only give rise to some "itching" in his mind instead of altering his physiological system.

The issue of faculty status is one that I have wrestled with at considerable length. At least at this point I lean towards a team approach in so far as the direction of a clinical program is concerned. (Ed. Note. This "team approach" is further discussed in the immediately prior issue of the CLEPR Newsletter).

Implicit in this notion is a clinical model of a program run by the law school for law students - not the farm out program which presently typifies clinical education. At prior meetings I have recommended and will discuss briefly here a replacement for the OEO Reginald Heber Smith program which will bridge the gap between the inhouse clinic and the farm out operation.

Taking into account a broad range of considerations including politics, polemics and pragmatics, I feel the director of the clinic should be someone already on the faculty who will agree to take on for a few years the responsibility for directing the clinical program and assuring its educational content. In the event such a soul is not to be found, then he should be recruited and selected on the same criteria by which the rest of us have passed muster.

Actual responsibility for the handling of individual cases, what I call the attorney-of-record syndrome, should rest with a clinical professor, recruited from the ranks of the practitioner - one who is adjunct to the law school and who has the requisite intellect, temperament and practice background to actually supervise the students in the handling of cases.

The team approach not only takes into account the realities of faculty politics, it also stands

on its own merits. An experienced practitioner not infrequently makes decisions about litigative strategy that are sufficiently instinctual as to go by unnoticed and therefore untaught. The clinical director will observe that a decision juncture has been reached, identify the decision made and subject it to analysis. Everyone of us has gone through a decision process at some point in our lives that climbing a set of stairs is a safe method of getting from A to B. The choice of this strategy for getting from A to B no longer is a conscious one. Yet clinical education demands that the presence of the choice be made clear and the rejected alternatives also be discussed.

Not much of this discussion can be looked upon as other then esoteric in the absence of the availability of sufficient resources to make clinical education possible. I have no magic formula to offer - only admonitions, and for what it is worth as a solution to the funding problem, a two-fold analysis.

First, I wish to make it clear that all our experience to date is based upon experimental clinical models which have not yet portended basic restructuring of the law school curriculum. If we go at this seriously we may find tradeoffs that even the most hesitant schools may find acceptable.

Secondly, I offer as a possible solution to the funding problem the federal cow whose milk nourishes us all: rich and rich alike.

One potential source of such nourishment,despite its present state of flux, is OEO Legal Services. I propose to combine clinical education and the Legal Service Program since both seek much that is identical - the one to produce and the other to hire competent legal counsel.

The "Reggie" program whose problems need no further detailing at this conference should be eliminated. In its place should be substituted the selection of six or eight geographically dispersed law schools which would be funded to experiment with and innovate in clinical education and which would offer a wide range of clinical experience, closely supervised and integrated with full time summer work in a Legal Services office. Selected attorneys from the Legal Services office would be designated as supervisors and would be released from their caseload to work under the direction of the law school. The effete snobbery, which is a prime appeal of the Reggie program, can still be retained by "tapping" 250 of the 1,000 or so enrolled clinical students for special honors and for entry into Legal Services at advanced salary and prestige statuses. Minority students could be recruited to the law schools with scholarship assistance. Others could be offered loans, a percentage of which would be forgiven for each year of work in a Legal Services program.

A second source of nourishment is direct federal funding. Most graduate disciplines have received federal funding. The law schools had a like opportunity under Title XI of the Higher Education Act which would have provided $75,000 for each law school clinical program. But like mighty Casey, the law schools struck out three times in getting Title XI funded. Why? Because of sheer unadulterated ineptitude - a classic example of the lawyer who is so busy representing everyone else that he does not have time to put his own house in order.

I cite by way of evidence what strikes me as a truly astounding statistic when juxtaposed

against the ultimate outcome of Title XI. We are all admonished in a commonly known parody of the Stars and Stripes Forever not to laugh at the passing hearse since it may contain someone's mother. The death of Title XI likewise is no laughing matter. Especially so when we consider the fact that approximately 50% of the 535 Congressmen and Senators call some law school their "alma mater".

Were they approached by their respective deans in an effort to obtain the curative elixer of Title XI? For the most part: No. And yet had they been approached it is almost certain that funding would have been obtained. At the last hearing on Title XI, the usual testimony on behalf of the bill was offered. Not a single Congressman at the hearing questioned the propriety of federal support for clinical legal education. All assumed that clinical legal education was desirable and merited Congressional support. Although Title XI was at bat for its third and final time, several Congressmen were not even aware of what it was all about. One Congressman indicated that while committee members had been approached by medical and nursing schools for financial assistance, they had never been approached by law schools.

A mathematician at this point would throw up his hands and exclaim: Q. E. D. Those of us less mathematically inclined need not turn to Joseph for an interpretation. When Pogo surveyed the situation, he was heard to exclaim: We have found the enemy and they is us.

NEWS RE DEVELOPMENTS IN CLINICAL LEGAL EDUCATION

CLEPR has been trying to get the news around about developments in clinical legal education. Some of our recent Newsletters are devoted to essays by clinical teachers. CLEPR solicited these essays on the basis of informative reports made to CLEPR pursuant to reporting requirements under CLEPR grants.

We hope to continue to have such essays appear periodically in CLEPR Newsletters. However, much more is happening that is worth reporting in shorter items which could appear more frequently than full-fledged essays. Because of this, CLEPR would like to devote some space in each Newsletter to a section entitled along the lines of the caption above.

We earnestly solicit those who are involved in clinical legal education to send us up to a page of text in double-spaced typing reporting on interesting developments. Others in clinical legal education are anxious to learn about many matters including, to cite just a few, how to improve supervision of clinical work; changes in programs concerning credit and time allotment for clinical work; the management of varieties of case experiences; and experience under student practice rules.

Our travels to the various law schools indicate that the news items will have an avid readership.

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Vol. III, No. 6, March 1971

Introduction

At the Association of American Law Schools' annual meeting in December 1970, CLEPR hosted a luncheon for its program directors. The focus of the luncheon addresses was on the use of "gadgets" in clinical teaching. Professor Nathaniel E. Gozansky of Emory University School of Law was one of the speakers. He discussed his workshop at Emory which uses videotape equipment to help students develop their interviewing and counseling skills. We present an edited version of Professor Gozansky's remarks. We again indicate that the views are those of the author and not those of CLEPR.

INTERVIEWING AND COUNSELING WORKSHOP: Using Videotape to Teach Clinical Skills - By Professor Nathaniel E. Gozansky

When I joined the Emory faculty one of my goals was to set up a small workshop for the purpose of attempting to teach students the art and science of good interviewing and counseling skills. The resources available were an interested student population; a legal clinic with a well of real clients with real problems; and a portable videotape recorder owned by the University. The theory was that the traditional curriculum with its research, writing and analytical requirements developed the ability of a student to work up a legal problem in a lawyer-like fashion, and that the third year clinical courses gave the student an opportunity to function in a lawyer's capacity. What was missing was a vehicle to aid the student develop the skills to interview his client and gather the necessary information so that he could identify problems. Also lacking was a method for teaching and developing counseling techniques. The student must learn how to communicate with his client in order to maximize the client's contribution to the furtherance of the case and, at the same time, facilitate the lawyer's handling of the case in the most effective and satisfying manner possible. It was obvious that a student should have some specific guidance in the area of client contact if his clinical experience was to be truly meaningful. Because the practicing bar habitually provides no training in the area of attorney-client communications, the law school's obligation to provide such training is evident.

Preference was given to videotape for a number of reasons. A great deal of non-verbal communication which would be educational to observe would be lost if one depended on audioreproduction alone. The videotape was preferred to the teacher and/or others sitting in on the interview because it was felt that their presence would negatively affect the interviewing environment. In addition, a great deal of teacher time would be required for his actual presence at each student interview. A videotape record was capable of the most careful review, not only for interviewing and counseling skills purposes but

also for substantive matter. Finally, and perhaps most important, it was believed that a student could learn a great deal about himself and his interviewing and counseling techniques if he had an opportunity to view himself rather than merely hear the appraisal of those who viewed him.

The program embarked upon was designed to give students a general insight into the total interviewing and counseling role of the lawyer and to give them specific experience with interviewing and counseling at the "intake" or first meeting stage of the attorney-client relationship. Clearance was secured from the funding agency of the legal clinic to request permission from clients to videotape their interviews. The ten week quarter was tentatively divided into three packages: a three week period for introduction and discussion of materials and presentations by various professional persons; five weeks for actual videotaping of interviews and review by the class of their videotape experiences; and the final two weeks were held out for tying up loose ends.

Preceding the beginning of the workshop the twelve students admitted to the class were required to read Harrop Freeman's book on Interviewing and Counselling. During the first three weeks of actual class, additional reading assignments were made and the students heard and spoke with a clinical psychologist, a psychiatrist, two practicing lawyers, a marriage counselor and a social worker. The goal here was to try to familiarize the students with other professionals who interview and counsel, and who might also participate in the handling of the attorney's client; and to help the student define the attorney's role as an interviewer and counselor as distinguished from these other professionals. It was felt that it was of great practical value to educate a student to appreciate the limits of his role as an attorney -- to see where the role of other professionals began -- so that he could provide the client with maximally efficient and economical representation.

During the next five weeks each student participated in at least two videotaped interviews. In order not to warp the student's tape session, one of the staff attorneys at the legal clinic secured permission from clients, making what was a reasonable effort to obtain consent from them. The consent form and explanation indicated that the tapes would only be viewed by law students, faculty and other personnel directly concerned with the substantive nature of the problem and/or for the educational gain that could be had by reviewing the particular experience. If there was any reticence visible on the part of the client, effort was then made to get the client to see a regular staff attorney or another student attorney and to bypass the videotape system. One of the most difficult problems in terms of ethics was the constant feeling that, given the clients being dealt with (all indigent), fully free and informed consent could not be obtained. The obvious rationalization is that the educational gain is sufficiently important to justify the ethical risk.

Twice a week for an average of three to four hours the class convened, along with a clinic staff attorney and/or a clinical psychologist, and watched playbacks of all the interviews. The student attorney then discussed the case, including a self-appraisal of his performance; the videotape was re-run, occasionally being stopped to catch a particular sequence; the

student made whatever additional comments he felt were worthy in light of having viewed his performance; and, finally, members of the class and others present were invited to comment and criticize.

After a few sessions the class began to develop a sense of comfort and camaraderie so that they became open and candid in their remarks to each other. They were encouraged to appreciate that complete frankness could yield substantial benefits.

Students spent so much time in review and critique of their initial interviews that this phase consumed the entire seven weeks left in the quarter rather than the original five allocated. It was also found that the students were investing a great deal of time in their actual representation of their cases, and it was decided to lessen the demands being made in the workshop so that they would have more time to prepare their cases properly. Supervision of the substantive aspects of the cases was vested in the legal clinic staff, leaving the professor to be concerned only with the dynamics of client communication.

The first year went so well that the experience was repeated with some modifications a second year. The ultimate goal, which was clearly in sight, was to deliver the system, so to speak, to the legal clinic staff for inclusion as part of their regular clinic program rather than retain it in the law school curriculum. To facilitate the movement in that direction the law school bought its own portable videotape equipment. The one selected has a wide-angle lens which minimizes the need for any technical skill in camera operation. About $2,000 purchased all the equipment that was needed, including the television projector.

It was decided to shorten the guest speaker list and to convey much of that information through the classroom instructor. It was also determined to record not just the initial interviews but some subsequent interviews between the attorney and client. Attempts were also made at taping mock interviews using students who were "acting" or were discussing problems that had already been resolved. The scope of the program was broadened by an invitation to do some union grievance interviews.

At the end of the second year certain conclusions were apparent. First, nothing is better than an actual interview with a real client who perceives he has a legal problem. Second, this type of program serves as a catalyst to develop skills that, given time, will develop by experience. However, the program provides a safeguard that these skills will be developed within the confines of the best possible conceptions of what good attorney-client communications are. Third, a student can be helped to see his own limitations as well as his strengths and thereby gain some insight into areas he should try to maximize or guard against in his development. Finally, students more quickly acquire self-confidence and are ready to "fly on their own" sooner than had they not had the experience.

Most of the weaknesses or drawbacks of this project have already been alluded to. Problems with clients' consent and the demands of time are both obvious. Editing is technically demanding as well as time consuming. Consequently, it does not appear to offer a satisfactory solution to some of the time demands. Another problem is the cost of tapes. They

cost about $40 so it would become extremely expensive to save them, yet when an educationally significant interview is captured it should be retained.

The future direction of the use of videotape presents interesting problems and possibilities. Dr. Russell Bent of the Emory Department of Psychiatry and the Georgia Mental Health Institute, his wife,who is a practicing attorney, and I are beginning to explore solutions and potentials. It is already clear that this educational tool, if used properly, can relieve demands on both teachers' and students' time. However, the existing materials available for instruction in the area of interviewing and counseling are not sufficiently comprehensive to fill the need: teaching material which is informative and beneficial should be collected and made available to students. We feel that time can and should be saved by exposing students to audio-visual recording of actual interviews by third parties, recordings that illustrate good and poor techniques. These materials, properly edited, would minimize the time that it takes to use audio-visual systems for educating large groups of students. It would then become a matter of individual decision whether a course includes a component of students actually being recorded and reviewed. Our thinking, at this point, is that at a minimum a student should have one interview that is subject to criticism by classmates and teachers. His interviews should only come after proper orientation and preparation. After this, students can be divided into small teams of two to four to review their own interviews in a constant effort to see themselves and rethink their own self images.

There are, of course, many other uses for audio-visual equipment. It can be used for recording moot court presentations, litigation course mock trials, student practice in negotiation and arbitration based on hypothetical problems of clients, etc. Once a school takes more advantage of possible creative and beneficial uses that videotape can be put to in furthering the goals of educational programs, the less significant the cost of the equipment becomes. In terms of trying to affect an individual student's professional conduct, two attributes must be kept in mind: Nothing impresses a student more than to see himself as others would see him; and nothing leads to a more effective and fair evaluation than the opportunity to study carefully and non-viscerally the presentation being reviewed.