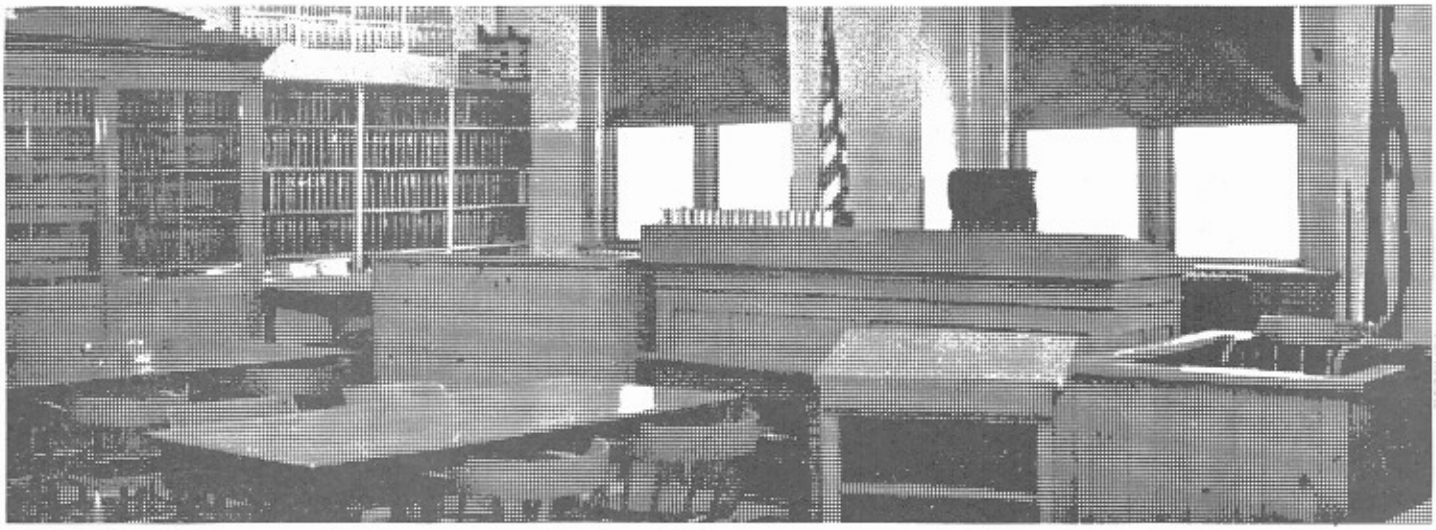

CLINICAL LEGAL EDUCATION PERSPECTIVE

SECTION ON CLINICAL LEGAL EDUCATION ASSOCIATION OF AMERICAN LAW SCHOOLS

VOLUME 1, NUMBER 1 FALL, 1976

FORWARD

Eli Jarmel (March 9, 1929 – September 20, 1976), Professor of Law, American University 1958-1961, Director of Institute of Continuing Legal Education of the State of New Jersey (1961-1970), Professor of Law, Rutgers University (1961-1973), Professor of Law, University of Denver (1973-1976), had many and varied intellectual interests. Major among those interests was Clinical Legal Education. He believed that the meaningful education of the law student required the acquisition of practical skills. Early in his tenure as Director of the Institute of Continuing Legal Education of New Jersey, he designed and implemented the skills course for lawyers, a mandatory practice alternative for admission to the New Jersey Bar. At Rutgers, he participated in the development of the Clinical Education Program. Because of his interest and competence, he became a charter trusted advisor to the Council on Legal Education for Professional Responsibility. Upon appointment to the University of Denver College of Law faculty, he assumed especial responsibility and leadership for the continual development of the Clinical Education Program. He doggedly insisted in the requirement of intense faculty supervision of Clinical Programs and concurrent intellectual vigor in those programs.

An equally compelling concern of Professor Jarmel was the development of new systems of delivery of legal services. He was uncompromising in his insistence that legal services must be made realistically available to all Americans. To this admirable end, he recognized the importance of law students, in Clinical Education experiences, providing appropriate services to the community. This compulsion and belief strengthened his demand for the most rigorous and thoughtful supervision, by faculty, of students in Clinical Education Programs.

Necessarily, Jarmel was interested in the development of and training for paraprofessional positions, as a part of his master plan for design of new system of delivery of legal services. In this area, he proposed creative and thorough plans for clinical experiences for paralegals.

To dedicate this first issue of **Clinical Legal Education Perspective** to Professor Eli Jarmel is most appropriate. He stood for imagination in legal education, in quality and depth in legal education. It is to these same goals that this new publication is dedicated.

Robert B. Yegge
Dean
University of Denver
College of Law

CONTENTS

Editors' Journal

Over a year ago, the idea of a clinical education publication came into being as an important and needed means of encouraging dialogue and synthesis in this growing, vital area of legal education. The publication was conceived as a diary which might provide a measure of clinical education's growth and development. Most importantly, the publication was conceived as an open forum for all persons interested in clinical legal education – no nameless notes by nameless students; no acceptances or rejections of material on the basis of the author's prestigious credentials or lack thereof; and, no decision to publish based solely on the obscurity of the proffered material.

As the idea of such a publication grew, interest and enthusiasm among clinicians and other legal educators demanded that our endeavors produce a publication of sufficient length and quality of format to meet the highest standards of a professional journal. But, others expressed concern that such an ambitious enterprise was premature and would liken the journal to the traditional law journal or review and might, thus, discourage rather than encourage clinicians from writing.

The **CLINICAL LEGAL EDUCATION PERSPECTIVE** *is the resulting product of our attempts to balance and account for the concerns of these opposing views. In so compromising, we have not sacrificed our dedication to quality and open access. We encourage your contributions and participation. With your support and continued interest, we hope that* **PERSPECTIVE** *will grow and expand to keep pace with the ever increasing need for communication in clinical legal education.* **ED.**

CLINICAL LEGAL EDUCATION **PERSPECTIVE**

Editor-in-chief . . . . . Katherine Raue
Associate editor . . . . . Marc Grober
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One subscription of *Perspective* will be provided without charge to the Director of Clinical Education at all AALS member law schools. Additional subscriptions are available at a cost of $3.00 per year. Copies of all issues may be ordered from the publishers at a cost of $1.50 per copy.

The *Clinical Legal Education Perspective* is published three times per year for the Section on Clinical Law Education of the Association of American Law Schools by the University of Denver College of Law Clinical Education Program, 200 West 14th Street, Denver, Colorado 80204.

The submission to the Editors of material of interest to the clinical legal education field is invited and encouraged. The opinions expressed herein, unless otherwise indicated, are not necessarily those of the Association of American Law Schools, the University of Denver College of Law, or the editors.

"NOHOW" . . . "CONTRARIWISE"

The editors have affectionately dubbed this feature "Dum/Dee." The Lewis Carrol characters, Tweedledee and Tweedledum, all trussed up in their pots and pans ready to do battle, seemed to be an all too accurate characterization of many of the current academic arguments.

In keeping with our editorial policy of providing an open forum for persons involved and interested in clinical legal education, "No How!" . . "Contrariwise" will be featured in each issue of **Perspective**. *Each column will present opposing viewpoints on some timely and topical problem facing clinical legal education. We hope that this feature will raise some new questions, clarify others, and stimulate your response.*

Focus in this issue is on the protection of client's rights in the clinical setting. The lines are drawn . . . where do you stand? **Ed.**

I write to recommend that teachers of clinical programs dealing with the indigent consider the possibility of teaching their students respect for their clients. A first step in this direction should be the elimination of the practice of videotaping interviews with clients.

I was present at the meeting of the Clinical Education Section at the AALS convention in Washington where a video-tape of a client interview was shown. The most striking aspect of this program was that a number of persons in the audience, presumably all teachers or supervisors in clinical programs, laughed repeatedly at the interviewee's evident lack of education and awkwardness of expression.

I do not believe that uncoerced consent to videotaping is possible. Indigents seeking 'free' legal services will inevitably see such consent as the price of those services. In any event, the client whose tape was exhibited in Washington did not consent to be laughed at by a room full of boors.

I also doubt that the client's husband, named on the tape, would have consented to be accused of adultery, drunkenness and laziness in public.

I believe that well run clinical programs can provide services to the indigent and education for the student. A program which barters legal assistance for the client's dignity does a disservice to both client and student.

Patrick J. Leach
St. John's University
College of Law

Although I wouldn't take as dogmatic a position as [Leach] seemed to in his letter, there's no doubt that the issue is a troubling one.

In the case of the particular tape shown at the AALS Annual Meeting, the client knew that legal services were available and would not be affected in any way by her decision to permit or refuse taping. The client also knew that the tape would be viewed for educational purposes by many people. I believe that those who were involved in taping the interview were influenced (I believe appropriately so) by the fact that this particular client was a thoughtful, independent person who seemed quite capable of making her own decisions.

Until recently, we've been satisfied if conditions similar to the ones above were met, but as we've become more involved in finding ways to assess and improve the quality of work (e.g., we've experimented with non-lawyer observers of client interviews and conducted follow-up interviews with clients whose cases have been closed), we find we're rethinking the matter.

I do believe that uncoerced client consent to audio and video taping procedures and other educational and evaluative procedures is possible and, therefore, to that extent disagree with Professor Leach. In fact I believe that assuming a client can't independently choose and so not providing the opportunity can be just as dominating as an affirmatively coercive situation. However, I do think more care should be taken when there's a desire to use a recording or in some other way open aspects of a client's case for discussion outside the attorney-client relationship. In addition to following a strict policy of not making the availability of legal service turn, in any way on a client's willingness to participate in some other form of broader discussion of his or her problem, we might consider the following to assure that consent is freely given:

(1) Third person advice might be made available to the client.
(2) Consent forms that clearly specify the nature and circumstances under which any material could be used.
(3) Simple and easily accessible revocation procedures should be available.
(4) We could always give the client a chance to "think it over" before agreeing (e.g. not ask for a response at the time the question is raised).
(5) We could provide a brief explanation but then reply on client initiation to return a consent form.

We could also take extra precautions to maintain anonymity, e.g. names can be dubbed out. It might be helpful to look at how other professions

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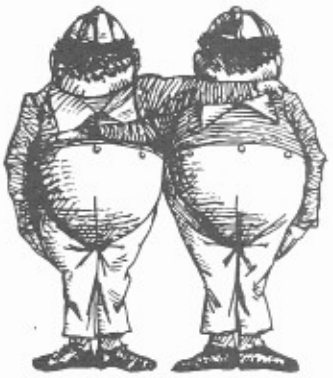

PROFILE

ANTIOCH CONTINUES UNIQUE APPROACH

Featuring a unique three-year integrated program of clinical and academic legal education, the Antioch School of Law continues to be a focal point of interest for clinicians. Professor Dewey Roscoe Jones has submitted a description of the current Antioch curriculum.

The dual programs of instruction and client service, taught and supervised by professor/attorneys, are mandatory for the entire three-year course of study. Through these programs, the school expects to graduate functional lawyers with a broad variety of skills and experiences. Since its origins in 1968, in the OEO funded Urban Law Institute, the school has emphasized training of lawyers to meet the immediate legal service needs of the disenfranchised elements of the population, while creating, planning, and making operational new theoretical and institutional structures to adapt the American legal system to changing societal forces.

This educational process begins immediately in the first year, with a three-week orientation to the client community and the District of Columbia, during which students live with low income families, work in community organizations, and visit courts, hospitals, jails, administrative proceedings, and welfare agencies. The orientation is designed to open communications with the client community and to familiarize students with its problems.

During the second month, students concentrate intensively on professionalization in the Professional Method I course. Here they are introduced to the legal skills of interviewing, fact development, negotiating, legal analysis, and legal research.

Upon successful completion of the course examination, students begin their clinical work and are assigned to a professor/attorney for supervision. Simultaneously, they begin the first group of first-year courses: Professional Method II (in which small groups gain practical experience in preparing cases for trial); Private law (merging contracts, torts, and unjust enrichment to study the law of civil obligations and remedies); and the Lawyering Process (civil procedure, the ethics of the attorney-client relationship, and the lawyer's role in gathering and using facts as seen in actual cases developed by the school's law firm).

As they enter the clinical program, first-year students are assigned to one of its three Law Divisions: Criminal, Private, and Public. These assignments are regularly rotated. All Divisions follow the same procedure, in which a request for legal assistance is received by telephone and assigned to a student intern. The intern prepares a schedule of questions, reviews this with a line supervisor, interviews the client by telephone or in person, and prepares a memorandum. After supervisor and Division Chief add their recommendations, the memorandum is forwarded to the Associate Dean, who determines whether the case will be undertaken. The situation of the client, the pedagogical value of the case, its merits, and the estimated time commitment required are several of the more important factors in this decision. Most requests are acted upon within two days.

Part of the clinical program's teaching function is carried out in weekly Grand Rounds, held by each division, and Office Rounds, conducted by each professor/attorney. In the larger sessions students and professors make joint presentations of current cases or of problem-solving topics. The smaller groups meet to discuss case experience and problems and to develop case strategies. Both types of sessions are designed to

help broaden the interns' perspectives in the areas of law serviced by their divisions.

Until the end of the first-year program, students are assigned to the more routine types of intake and processing within their divisions. During their first semester, they are assisted in these tasks by second-year students.

The academic courses of the first year conclude with Public Law I (federal statutes, and constitutional law viewed from an advocacy perspective); Public Law II (criminal law and procedure); and Legal Decision-Making (legal concepts and institutions, and the relationship between procedural and substantive law).

The first year of studies ends in mid-August. In the second year, beginning only two weeks later, the curriculum seeks to impart an understanding of the making of decisions and policy and to develop students' skills in problem-solving.

Four courses are required in the second year, with students expected to begin work in areas of specialization beyond these: Real Property (including landlord-tenant problems, racial discrimination in housing, and land-use planning); Business Associations, Business Regulation, and Economic Development (including the fundamental concepts of agency, partnership, corporate law, and federal taxation; the course also studies the development of minority businesses aided by the teaching law firm, the role of the lawyer in business planning and management, the implications of corporate responsibility, and the function of regulatory agencies); Decision Makers and Decision Making (using transactional analysis and case histories to study the decision process in judicial, legislative, and administrative forums); and National Goals, Federal Programs, and the Legal System (ways in which legislated public policy is implemented and enforced). This last course includes a three-month internship in a governmental agency during the second semester.

Throughout the second year, students are also working in the school's law firm. After completing their exposure to the third clinic division during the first semester, they move to an advanced clinic, handling more complex cases, in which they are able to choose an area of specialization.

In addition, when not serving their government internship, second-year students round out the second semester with at least two elective seminars in which, as well as mastering an area of law, they must produce substantial works of social utility. Some of the available seminars are: Labor Law, Environmental Law, Native American Legal Rights, Women's Rights, Federal Courts, and Evidence.

The third-year curriculum objectives are: to develop trial and appellate advocacy skills, to provide an overview of the legal profession and the problems confronting it, to produce a thesis or work of high-quality, empirically-based scholarship, and to prepare the student to enter the legal profession and play a constructive role in its improvement.

Involvement in the clinical program is extensive in the third year. Students participate in the actual conduct of trials, as well as directing and supervising first and second-year students and legal technician trainees.

The third-year academic component consists of at least three elective "mini-courses", and four required courses: Trial Advocacy (taught in the context of the students' actual assigned cases; successful completion includes conducting a trial under professional supervision); Appellate Advocacy (preparation of an appeal brief and, where possible, participation in appellate argument is required); Jurisprudence (to stimulate thinking about careers, and to provide the historical and philosophical background necessary to fulfill the thesis requirement); and Legal Profession Career Options and Delivery Systems (examining professional certification, responsibility, and discipline, law office management and economics, and the potential roles of technology and paraprofessionals).

The thesis, to develop from the students' practical experience in the school's law firm, must contain original empirical and legal research. It must include a thorough exposition of the philosophical, institutional, doctrinal and policy implications of the topic.

The underlying philosophy of the curriculum includes the belief that clinical education and classroom education are of equal importance. Consequently, the same grading system is used throughout the curriculum, and all credit hours are calculated on the same formula, based on actual hours spent in the activity.

CANADIAN CRIMINAL LAW COURSE COMMENCES

An experimental Intensive Programme in Criminal Law began in January, 1976 at Osgoode Hall Law School, York University, Ontario. Professor Alan Grant, Programme Director, indicates that a total immersion approach will be developed which allows full involvement in a particular area of criminal law for the fifteen-week semester. This intensive experience is designed to develop conceptual and methodological tools which will be of lasting usefulness in the students' careers.

The twenty-one participants will receive ten-week fieldwork assignments with Crown counsel, defence counsel, and judges at the Provincial, County and Supreme Court levels. Practitioners and judges assume a supervisory role over these placements.

Two academic seminars – one focusing on advanced criminal →

Canadian Criminal Law Course Commences

Continued from page 5

law and procedure, the other on professional responsibility – are held during the ten week placement period; and a coursebook of materials covering ten relevant topics has been prepared for each seminar, and will assist students in leading seminar discussions.

It is hoped that the presentations, discussions, and papers of the academic seminars will supply additional perspectives on the students' fieldwork experience, which is restricted to one particular area because depth is regarded as more important than breadth in the context of the placement.

The other five weeks of the semester are divided between two weeks prior to placement and three weeks after its completion.

In the two-week session students attend the law school four days per week, taking part in lectures and discussion sessions run by the Director on police and corrections topics.

The students' placement experiences will also be augmented by court appearances and, since all student practice is restricted to summary criminal matters, involvement with more serious offences will be simulated by a series of trials in the law school's Moot Court. The simulations will be conducted in cooperation with the R.C.M.P. Southern Ontario Training Department's in-service course for junior constables, and will include all aspects of a criminal case, from examining exhibits and interviewing police witnesses to the court proceeding. Videotapes of proceedings will be played back and analyzed at special sessions convened for that purpose.

The final three weeks of the course will be devoted mainly to academic seminars, which will again meet four times weekly. Student presentations based on their experiences, with commentary by program personnel, will be featured. Each seminar will also require a written paper incorporating course work, independent research, and reflections on fieldwork activities.

The pass-fail grade will be based half on performance in the academic written papers and half on performance in the other segments of the program. A full semester of credits will be awarded to a student who successfully passes the course.

While the fieldwork component of the course may invite some comparison with the Canadian articling system, the Osgoode Hall Programme is not designed to substitute for articling. It will differ from articling, most notably, in its vital academic element and in the students' accountability to a full-time faculty member throughout their experiences.

SETON HALL GOES HISPANIC

Seton Hall Law School's clinical program has added a Hispanic Program to help meet the growing needs of Newark's Hispanic community. The Program's goals are to provide competent legal representation in civil matters for low-income Hispanics who are unable to communicate adequately in English, and to promote within the Hispanic Community an awareness of their legal rights. Funding is arranged through the New Jersey Department of Higher Education.

The staff of the project is presently 84% Hispanic and bilingual and participation is open to all law school students. In addition to a full-time clinical director (Professor Wilfredo Caraballo) and a full-time secretary, the staff includes a third-year law student who, as student director, assists in program operation and supervision; nine third-year legal interns who interview clients, prepare cases, and appear in court; three law-student work-study interns who perform the same tasks; and three Seton Hall University undergraduates who conduct investigations, act as interpreters, and help in community projects. The program also draws upon the services of volunteers.

While the main emphasis is upon litigation, programs in legal education are also being developed. These include a community college course on basic law, a television program planned in conjunction with local Spanish-language stations, a joint program with the New Jersey Office of Consumer Protection, and a speakers program in which students inform community groups of their legal rights and responsibilities.

DEE/DUM

Continued from page 3

with much greater experience in clinical teaching have handled the problem (e.g. medicine, psychology, social work) though I'm not at all sure we'd want to emulate the practices in those fields.

Professor Leach also commented on the audience response. I guess I find laughter in a situation such as the AALS Annual Meeting much more ambiguous than he did. When I've inquired into similar reactions from students or practitioners, the reply has been that they were responding to recollections of being in similar situations or from genuine empathy with, not distance from the client. In any case, I've found that a careful introduction to a tape can alleviate any possibility of audience disrespect or lack of consideration for the persons on the tape, and this should have been done at the AALS meeting. I'm glad the concerns were raised and I'd be interested in other responses you've had to the issue. It's an important one in clinical education and deserves more thoughtfulness and concern than it perhaps has been given.

Jeanne Kettleson
Harvard University Law School

ETHIC PURITY

Alawyeration as the Only Legitimate Goal of Clinic

by Jeffrey Froelich

Every time someone finds out I work at the law school they ask "What do you teach?" My answer, "Clinic", brings either a polite, but covertly puzzled, "Oh, how interesting", or a less sophisticated, but more honest, "What's that?" Depending on my mood, either response may launch an extended harangue on the meaning, workings, and importance of clinical legal education. However, my concern for my fellow man (as well as my annoyance at talking to someone, who, not unlike the Polaroid SX-70, is focusing somewhere between 10½" and infinity, but certainly nowhere near me) usually provokes a much more realpolitik reply, "It's a program where students get to work on real cases."

This of course causes the poor questioner, who was hoping for something 'straightforward' like "contracts" or "labor law", to mutter, as he backs away, a polite but now overtly disinterested, "Oh, how interesting", or a more sophisticated but now less honest, "No kidding, that sounds really great."

William Pincus, in his seminal article summarizes the theoretical role of clinical legal education – (legal education in a service setting) – as the transforming of the law school into a professional school instead of another graduate facility above the college level. He says,

> ". . . it teaches students how to be lawyers, how to act the answers to legal questions. This carries legal education far beyond the confines of academic teaching to the education of the whole person preparing to be a professional, because it teaches him while he is acting as a professional . . . ."[1]

Among those of us who dabble in such pedagogical esoterica, the value of clinical education is no longer seriously debated. Discussions today accept the clinical premise and center on teaching methods and concerns.[2] Our time is spent weighing simulation, videotape, team teaching and the like.

But premises are never that copacetic. Francis Allen, writing as President of the A.A.L.S., suggests that the pendulum may have swung too far; that the current emphasis on "lawyering skills" may be aiding in the creation of "anti-intellectualism in legal education."[3] Moreover, I believe some existing clinical education programs succeed via a self-fulfilling prophecy. If the goal is skillful trial attorneys, and we expertly teach negotiation or *voir dire* or whatever, then we will turn out skilled trial attorneys who are defined by their expertise in negotiation or *voir dire* or whatever. But such a goal is far removed from William Pincus' ideal of professionalism as opposed to technocracy.

Skills, whether they are as pragmatic as drafting, interviewing, and advocacy or as etherial as Dean Allen's "reading, writing, and reasoning" are vital to an attorney. Because the acquisition of such skills does not lend itself to the Socratic method, it is often 'relegated' to "clinic". Fortunately, however, law school and Gaul are divided into more than the two parts of casebooks and clinic. The teaching of these skills is very important and given all of our sexy new teaching methods can be done very effectively; but not in "clinic."

The unique role of clinical legal education is alawyeration. Speaking of gall, I'll define that since it hasn't made it to Webster's, let alone Black's or Ballentine's:

1. *a law yer a tion* / a-lo-yo-ra-shon /n. : a synergistic process of borrowing between seemingly diverse disciplines resulting in new and blended patterns; esp. modifications in limited perspectives characterized by a comprehensive conception or apprehension of systems resulting from contacts with society.
2. the process by which a human being becomes a lawyer and vice versa.

alawyerate / -rat/vt, to change through alawyeration; - ated;ating;

I tell students who sign up for any clinical course that periodic seminars are (1) mandatory and (2) mostly B.S. They are amorphous (see how skillfully I avoided another scatalogical expression) in that they do not lend themselves to the note taking

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ETHIC PURITY

(and subsequent test giving) of a straightforward "substantive" course. Speaking of self-fulfilling prophecies, these sessions are mandatory precisely because they are amorphous and most students have a natural, probable, and understandable tendency to skip these classes with greater frequency than others. Moreover, this tendency by students is continued by attorneys who hesitate to become involved in situations not involving a case and controversy (i.e. not amorphous) or not likely to result in a fee (i.e. a good exam grade). I question whether the failure to ask questions is not actually an answer itself.[4] In short, the sessions are mandatory precisely because people would not otherwise be present.

The students participating in clinic this semester are grouped into Criminal, Civil and Miscellaneous. The Criminal Section contains interns (licensed under court practice rules) and externs (second year unlicensed students) who are either farmed out with a prosecutor or the public defender or who represent indigent misdemeanants through our in-house clinic. The Civil Section contains interns and externs working with either the Legal Aid Society or the in-house clinic. The Miscellaneous Section is composed of externs who are clerking for judges, banks, planning councils, etc. . . .

Selected discussion areas promote the alawyeration. The Criminal Section is questioning why we even have what purports to be a criminal justice system, how it should be altered and what are the roles one should assume in working in the existing system and effecting any changes.

For an example, take plea bargaining (please!). Seriously, veritable guidebooks have been written expertly diagramming when and how a prosecutor or defense attorney should approach opposing counsel and what strategems should be employed.[5] This knowledge is invaluable in a criminal law practice. But, as noted above, it should be taught in Criminal Law, Criminal Procedure, Trial Advocacy, Negotiation or similar offerings, not in "Clinic."

The clinical teaching approach should not be when and how to plea bargain, but rather what is really involved in a negotiated disposition from the perspectives of prosecutors, defense attorneys, victims, defendants, judges, police, the "system", the community, and society. Such a consideration obviously leads to the broader questions of: Should this person have been charged with a crime? How should the factual question of guilt be determined? Is that the only question? What should be done following a finding that he did the act in question (or that he didn't)?

A primary function of a criminal prosecution clinic is to keep the student-lawyer awake at night as he struggles to escape the imagined stare of the defendant he has convicted or of the victim who saw her attacker go free. True, in achieving this goal, new teaching methods should be utilized to the fullest. Sources, such as attorneys, ex-offenders (admittedly these may overlap), addicts, victims, politicians, etc. should be employed as available teaching materials. But the question should not be just "how?," but "why?".

"A primary function of a criminal prosecution clinic is to keep the student-lawyer awake at night . . . ."

The Civil Section concentrates on the legal system's rationing of justice. Are lawyers necessary for justice? Do lawyers create their own demand?[7] Are law schools necessary? Are there too many or too few attorneys? Is there a right to face to free counsel in civil cases?[8] Does a Legal Services attorney occupy a special position?

The Miscellaneous Section attempts to understand the decision-making process utilized by judges and public agencies. Why are there courts? What type of disputes belong before them? Who are these people that make the decisions? Do they, should they, decide on the law, the facts, or emotion? To whom are they responsible?[9] How should they be selected?

The alawyeration sought in the Civil and Miscellaneous Sections obviously deserves much more discussion than this passing mention. But the truth is that even these, at one level, very elementary questions are never raised in any organized fashion in the traditional curriculum.

A curious comparison is to medicine.[10] In what appears even to my legalistic mind a somewhat Yossarrianesque innovation, a modern physician can specialize in general practice. While further comparison between the practice of law and a "family-centered" medical practice is simplistic, and would probably cause defamation suits from both sides, it is not misleading to compare the effort by many medical schools to teach some things beyond "straightforward" "substantive" courses such as anatomy or chemistry.[11]

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Even given the trend of our and other professions toward continuing education, most lawyers will never return to the academic emersion that is law school. They will indeed learn many skills during these years. Hopefully many of these will be acquired as a matter of course during clinical experiences if not during specifically designed classes. Moreover, skills will be acquired and/or honed daily once the attorney begins to practice.[12]

Likewise with professional responsibility. There is certainly no need to footnote the post-Watergate interest in teaching ethics at law school.[13] But just as the miller's daughter in Rumpelstiltskin couldn't spin gold out of straw, there is very little that can be done in three years of law school that will alter a dishonest person's lack of ethical standards. We therefore should not brood over whether such courses produce ethical attorneys or merely more careful ones. Clinic is the only real opportunity for future lawyers to consider the ethical dimensions of their acts and to adjust these acts – whatever their inner motivation – to the high standards for which our profession reaches.

"... there is very little that can be done in three years of law school that will alter a dishonest person's lack of ethical standards ...."

Very few attorneys will ever again have the opportunity, or, perhaps, be "humble" enough, to listen to academics profess certain attitudes and perspectives. Rarely will they ever again have the time or interest to just stop and think, to consider the larger dimensions of their acts. Most attorneys will be so busy *practicing* law they will never consider the people who *live* it. It seems ultimately logical to seize the clinical experience to impart (i.e. profess) these values.

As Judge Frankel noted in his Cardozo lecture, law schools should see themselves as guides and teachers, not followers, of the profession. The modern emphasis on "lawyer skills" begs the main question of how much of what attorneys do is worth doing and how much may be unworthy or evil for the public interest.[14]

These real questions cannot be relegated to vicarious acquisition while we settle for instruction in how to be the fastest gun in town. Josh Randall didn't settle for that and he ended up with Ali McGraw.[15] Future lawyers could do a lot worse.

---

footnotes

1. **W. Pincus,** *Legal Education in a Service Setting,* in **Clinical Education for the Law Student** 27,32 (CLEPR, 1973).
2. **CLEPR Annual Survey**, XV-XV i (CLEPR, 1976).
3. Allen, *Message from the President,* **Am. Assoc. of Law Schools** Newsletter #76-2 (May 12, 1976).
4. *e.g.* **Ravitz,** *Reflections of a Radical Judge,* in **Verdicts on Lawyers** (Nader & Greene, eds., 1976).
5. *e.g.* **Amsterdam, Trial Manual for the Defense of Criminal Cases** (Student Edition 3, 1975).
6. *e.g.* **Auerbach, Unequal Justice** (Oxford Press, 1976) at 308 where he questions whether "... equal justice under law will remain subservient to unequal justice under lawyers."
7. *e.g.* **Hapgood, Lawyers: The Experts' Experts in The Screwing of the Average Man** (Doubleday, 1974).
8. *e.g.* Drinan, *Reflections on the Struggle,* 33 **NLADA Briefcase** 51 (January 1976).
9. *e.g.* **Newfield, Cruel and Unusual Justice,** (Holt, Rinehart & Winston, 1974).
10. Speaking of curious comparisons, compare "Comparisons are odious" (Christopher Marlowe, Lust's Dominion, Act II, Sc. 6 with "comparisons are odorous" (William Shakespeare, The Comedy of Errors, Act III, Sc. 5) Whoever said what, it proves the point.
11. *e.g.* Keyes, *The Future of Medical Education: Forecast of the Council of Deans,* 50 **Journal of Medical Education** 319 (April 1975): "Academic medical centers are recognizing that much more deliberate analysis of their social environment is increasingly critical if they are to remain vital and, in cases, even to survive." and Hiatt, *The Responsibilities of the Physician as a Member of Society: The Invisible Line,* 51 **Journal of Medical Education** 30,38 January (1976): "If we wish to prepare our physicians as fully responsible members of society, our medical schools must acknowledge that medicine does not equal health and that a concern for the individual patient must be matched by a concern for the health of society as a whole."
12. Coleridge's admonition should also be kept in mind: "legal studies and practice sharpen, indeed, but, like a grinding-stone narrow whilst they sharpen." **Table Talk; Duties and Needs of an Advocate.**
13.
14. Frankel, *The Search for Truth: An Umpirecal View,* 123 **U. Pa. L. Rev.** 1031 (1975); and 30 **Record of N.Y.C.B.A.** 14 (1975).
15. My younger students insist that I note that Josh Randall, the bounty-hunting star of the 1960's television show "Wanted: Dead or Alive" was portrayed by Steve McQueen. I thought everybody knew that.

INVENTORY

We would like to thank Professor Dewey Jones for his participation and suggestion of this feature. We hope that as a regular feature we can provide a valuable **INVENTORY** *of resources available and useful to clinical legal education. We encourage you to share those resources which you may have found to be particularly useful or innovative.* Ed.

I write to suggest that you consider including in the newsletter a small space which could be used to print a selected bibliography of articles, books, and reports which would be of help to clinicians.

Enclosed you will find a small bibliography which I have pulled together in an effort to educate myself about clinical activities in the last several years.

I direct your special attention to the first five books. The first one I have completed and it promises to offer the conceptual basis for planning, examining and evaluating work of students on "live" matters. It may provide the vehicle to permit us to transcend the everyday doldrum of repetitive tasks and really make it possible to help students internalize methods to constantly increase their professional effectiveness indefinitely. That has been my real desire even though I was not able to verbalize it before now.

I feel that I may be free at last to be able to significantly intervene in the students education to work with them to assimilate this process.

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