



SECTION ON

## CLINICAL LEGAL EDUCATION

Reply to: Roy T. Stuckey  
U.S.C. Law School  
Columbia, South Carolina 29208

This Newsletter is a forum for the exchange of points of view. Opinions expressed here are not necessarily those of the Section and do not necessarily represent the position of the Association of American Law Schools. AALS Executive Committee Reg. 12.4(c).

### Section Committees Appointed

Joe Harbaugh has appointed the following committees:

#### Executive Committee:

Joe Harbaugh, Temple, Chairperson; Dean Rivkin, Tennessee, and Judy Potter, Maine, Cochairpersons-elect; Roy Stuckey, South Carolina, editor, Section Newsletter; Stacy Caplow, Brooklyn; Rod Jones, Southwestern; Gary Lowenthal, Arizona State; Peter Ozanne, Oregon; Larry Rose, Kansas; and Jack Sammons, Mercer.

#### Program Committee:

Bill Greenhalgh, Georgetown, chairperson; Terry Anderson, Miami; Bob Bloom, Boston College; Sue Bryant, Hofstra; Noel Larrivee, Montana; and Mark Schoenfield, Northwestern.

#### Bylaws Committee:

Paul Boland, UCLA, chairperson; John Bowman, Boston University; Evelyn Cannon, Maryland; Vance Cowden, South Carolina; Roark Reed, S.M.U.; and Kandis Scott, Santa Clara.

#### Awards Committee:

Elliott Milstein, American, chairperson; Ron Belfon, N.C. Central; Lisa Blitman, New York; Bob Doyel, Mississippi; Roger Haydock, William Mitchell; and Jim Stark, Connecticut.

#### Nominating Committee:

Gary Palm, Chicago, chairperson; Paul Bergman, U.C.L.A.; Ken Gould, Arkansas, Little Rock; Susan Kupfer, Harvard; and Bob Seibel, Drake.

As indicated in the June Newsletter, the Section has no bylaws and will not before the annual meeting in San Antonio in January. Therefore, these committees will exist on an interim basis until the Section has had the opportunity to consider any recommendations of the Bylaws Committee at its annual business meeting.



At the business meeting, the Section will select a new Chairperson-elect and, assuming an Executive Committee will be one of the committees recommended by the Bylaws Committee and accepted by the Section, its members will also be elected. Recommendations for these positions should be submitted as soon as possible to Gary Palm, Edwin F. Mandel Clinic, University of Chicago Law School, 6020 S. University Ave., Chicago, Illinois, 60637.

The Program Committee is expected to move quickly, and any ideas for the annual meeting program should be sent without delay to William W. Greenhalgh, Georgetown University Law Center, 600 New Jersey Ave., N.W., Washington, D.C., 20001. Due to the success of previous Section activities, the program in San Antonio will occupy all day on January 3 with the business meeting scheduled for that evening. Preliminary program information, including registration materials, will be sent to law school deans in early September.

#### Clinical Teachers Conference Successful Again

The fourth annual National Clinical Teachers' Training Conference was held at Big Sky, Montana, from June 15-21. Clinical teachers from more than forty schools were present and spent the week attending workshops on clinical topics and in small group sessions where teaching techniques and theories were explored and practiced. The conference was helpful to most people from a substantive viewpoint and universally worthwhile as a forum for creating and renewing friendships. Those who had attended previous conferences felt that the level of sophistication among participants was remarkably high and saw this as a good sign for the future of clinical legal education.

There was some criticism that the meeting focused too much on how to conduct a critique of a student performance, and too little on classroom teaching techniques. Joe Harbaugh, the chief planner for the conference, acknowledged the validity of this criticism but explained that it was created by the unanticipated increase in the number of clinical teachers who've become responsible for teaching classroom components during the past three years.

The volunteers who participated in the major new feature of the conference reported that it was very successful. Designated Phase III, it involved critical discussions centered around videotapes of participants' 1:1 supervision of their own students, either preparing them for the performance of a lawyering skill or evaluating it after it had been completed. Phase III will probably become a regular feature of the National Conference.



## Chairperson's Message

AT LONG LAST we have a committee system in place, albeit on an interim basis awaiting formal action at the annual Section meeting on January 3rd in San Antonio. I want to thank all of you who volunteered to serve. However, because of the need to keep committees at a "working size," a number of volunteers were deferred for later service.

A few words about some of the committees. Bill Greenhalgh, chair of the Program Committee, needs your suggestions for the all-day program in January as soon as possible because of an October 1st AALS printing deadline. Likewise, Gary Palm's Nominating Committee would like to receive your nominations for Chairperson Elect and members of the 1981 Executive Committee quickly so that it may conduct the appropriate inquiry. I have suggested to Elliott Milstein, chair of the Awards Committee, that the Section award be named in honor of Bill Pincus. Your thoughts about this suggestion and the procedure for selecting the award recipient should be sent to Elliott before the Committee forwards its recommendations to the AALS Executive Committee's November meeting. I've also asked Paul Boland's Bylaws Committee to consider whether the Section should charge nominal dues (\$5 or \$10 per year) as some other Sections do to supplement our annual \$700 AALS appropriation. You may want to pass on your thoughts on this issue to Paul.

WHAT A DIFFERENCE TWO YEARS MAKE in planning a Clinical Teachers Training Conference! The faculty for the 1978 Conference in Washington devised Phase I to introduce clinicians to classroom teaching while still addressing 1:1 evaluation, then the predominant clinical teaching model. Many of the 1978 evaluations criticized the Phase I classroom teaching component since most participants did not do any classroom teaching of skills. The most prevalent criticism of the 1980 Conference was that not enough time was spent on classroom teaching, something virtually all participants did and about which they wanted feedback and criticism.

It is clear the 1980 faculty erred in assessing the needs of clinicians. To remedy this, a future Newsletter (as well as the Conference pre-application forms) will solicit your input prior to the meeting of the 1981 Conference faculty: The error, however, emphasizes a remarkable development in clinical education. Our teaching has apparently grown from particularized training in a 1:1 case setting to the point where clinical instructors believe there is a body of generalized principles, concepts and theories about lawyering that can be transmitted to groups of students. Without abandoning individualized instruction (a hallmark of our pedagogy), we should view this change in clinical education with pride.

THE CHANGING OF THE GUARD in Section activities is reflected in the 1980 Conference faculty and committee assignments. When I assumed the Section chair last January I pledged to involve a greater number of people in the business of the Section. In fulfillment of that commitment, a majority of the Conference faculty I appointed (7 of 11 faculty members) had never served in that capacity, a departure from the past. A review of the committee members listed elsewhere in the Newsletter reveals a large number of "new names" from all around the country.

All of this merely reflects the strength of our Section and the commitment of individual clinicians to active involvement in the development of clinical education. In my experience, too many AALS Sections have become virtually inactive because they have failed to involve enough of their members in Section proceedings. Hopefully, these small steps mark the beginning of a pattern and practice of the Section which will aid its continued growth and achievement.

Stanford also received a \$172,000 grant from the Carnegie Corporation of New York which will be used to further Professor Amsterdam's work in the simulation method of clinical teaching. It will be used in the preparation of teaching materials and a program of instruction for the simulation method.

In accepting the Montgomery gift on behalf of the school, Dean Charles Meyers observed: "The importance of this gift cannot be exaggerated, for the full impact of the simulation method of clinical instruction on the future of legal education can at this time only be imagined."

### Antioch's Competency Materials Available

The June Newsletter reported the existence of a "Catalog of Definitions of Generic Lawyering Competencies" and evaluation forms which had been developed by a task force at Antioch Law School. The answer to quite a few inquiries is that copies can be obtained from H. Russell Cort, Ph.D., Director, Evaluation Research, Antioch School of Law, 1624 Crescent Place, N.W., Washington, D.C., 20009. (202) 265-9500. There is a charge of \$3.00 per copy to cover the cost of printing and mailing.

### Symposium Planned

The Cleveland State Law Review is planning to publish a Symposium on Clinical Legal Education principally to commemorate the contributions to legal education of the Council on Legal Education for Professional Responsibility (CLEPR). The symposium will contain prefatory remarks, scholarly articles, and abstracts of each of the various clinical legal education programs offered at American law schools. Their objective is to develop a comprehensive resource document on clinical education, professional responsibility, and lawyer competency. Several leading judges and legal scholars have agreed to contribute to the symposium.

Anyone interested in contributing an article dealing with clinical education, lawyer competency, professional responsibility, or CLEPR should contract Robert S. Katz, College of Law, Cleveland State University, Cleveland, Ohio, 44115. (216) 687-2525. The deadline for submitting articles is October 15, 1980, but it can be extended.

### Job Available

UNIVERSITY OF CALIFORNIA AT LOS ANGELES is seeking applications for a tenure-track faculty position to teach in its clinical program. Qualifications include superior academic record, scholarship abilities, clinical teaching and/or litigation experience, minimum 2 years bar membership in any jurisdiction and willingness to take California Bar exam no later than July 1981. Position begins July 1, 1981. Please send applications to Associate Dean Paul Boland, UCLA School of Law, 405 Hilgard Avenue, Los Angeles, CA 90024.

### Transitions

Robert Condlin has moved from Virginia to teach in the clinical program at the University of Maryland. Mark Spiegel has left Pennsylvania and is at Boston College. James Wilson is no longer at Michigan, having joined the clinical program at Cleveland State. Brent Taylor was among the final group of Bradway Fellows at Duke and is a clinical professor at South Carolina.

Donald Beskind has taken leave from Duke and is practicing law in Durham. Dean Rivkin is visiting in the UCLA clinical program during the Fall.

Barbara Caulfield will leave Hastings where she heads the Center for Trial and Appellate Advocacy and join the faculty at Georgetown on January 1, 1981. She will codirect the Appellate Litigation Clinic with Larry Ritchie.

At the AALS: Dean Albert M. Sacks of Harvard replaced Jerre Williams when President Williams resigned to become a Judge on the U.S. Court of Appeals for the Fifth Circuit. President Sacks' term will run through 1981. New Executive Director John A. Bauman has assumed the duties held for many years by Millard Ruud who is returning to Texas. Marianne Fiorentino will leave the AALS on Sept. 5 to have a baby. In her capacity as Assistant Director of the AALS, Marianne has provided unending kindness and invaluable services to the Section on Clinical Legal Education. Jane LaBarbara will be the New Assistant Director.

### Clearinghouse System Conceived

One of the good suggestions made at Big Sky (I believe it should be credited to Liz Schneider of Rutgers-Newark) was to develop a clearinghouse system by encouraging individuals with interests in specific areas to collect and disseminate related information. Undertaking responsibility for a single topic would usually not be burdensome, and the Newsletter could publicize these mini-clearinghouses as they are established.



- 3) those standards implemented in determining federal admissions to the bar (i.e., implementation of the Devitt Committee Report) and how this affects the practice of criminal law.

The committee was chaired by William W. Greenhalgh, Georgetown, and included Barbara Caulfield, Hastings; Norman Lefstein, UNC; Judy Potter, Maine; and John Cleary, Federal Public Defender for San Diego. The future of this committee is uncertain, but it is expected to be reappointed.

At its business meeting on August 5th, the Section elected William W. Greenhalgh to be its vice-chairperson. In the normal progression of events, Professor Greenhalgh will become the chairperson-elect next year and will chair the Section in 1982-83.

#### Title XI Grants Awarded

The Department of Education will announce \$4 million in grants which have been awarded to over eighty law schools for 1980-81 under the law school clinical experience program. During August, officials at Education began contacting those schools whose proposals had been recommended to receive funding. It will be later before official notifications reach the schools.

As reported in the June Newsletter, part of the delay was caused by the budget package being delayed in Congress, but the major problem was that the Senate Appropriations Subcommittee had put the program on its rescission list; thereby threatening its \$4 million appropriation. Although it was predicted that the outcome would be a \$2 million appropriation, there was a possibility that the result could have been the loss of all funding.

Many people responded with invaluable assistance to the call for a lobbying effort by John R. Kramer, Chairman, AALS Committee on Government Relations, and the impasse was finally broken through the efforts of Dean Gordon Gee of West Virginia, who enlisted the assistance of both U.S. Senators from that State.

The program is expected to be reauthorized in the Education Amendments of 1980 (it will be known after this year as Title IX), but the Education Amendments are still tied up in Congress.

#### Regional Conferences Being Planned

The Law School of the University of South Carolina will host a conference of clinical teachers from Southeastern law schools at Kiawah Island, S.C., from November 20-23, 1980. The meeting is sponsored by the Council on Legal Education for Professional Responsibility which is allowing South Carolina to offset

administrative expenses with surplus funds from a previous CLEPR grant. The conference programs will cover a broad range of topics: workshops are planned on classroom teaching, one-on-one teaching and simulations; and another segment of the program will discuss the goals of clinical education in terms of how well they can be achieved by various program models. A highlight of the conference will be a group discussion about the needs of clinical education during the next decade which will be led by some members of the AALS Special Committee on Clinical Education.

Additional information about the conference can be obtained by writing or calling Roy Stuckey or Vance Cowden, U.S.C. Law School, Columbia, S.C., 29208. (803) 777-2278.

Two other regional conferences are in earlier stages of planning. One for the Midwest is being promoted by Robert F. Seibel, Drake University Law School, 2841 Brattleboro, Des Moines, Iowa, 50311. (515) 271-3851.

Michael R. Sheldon is planning a meeting for Northeastern law schools. For more information, contact him at the University of Connecticut School of Law, Greater Hartford Campus, West Hartford, Connecticut, 06117. (203) 523-4841.

#### Georgetown Clinic Wins Big One

On June 16, 1980, the U.S. Supreme Court issued its opinion in U.S. vs. Henry, \_\_\_\_\_ U.S. \_\_\_\_\_, 48 LW 4703, which upheld the Fourth Circuit's decision (590 F2d 544) to reverse a conviction for armed robbery. The Court ruled that a defendant's right to assistance of counsel had been violated when incriminating statements by him were repeated at trial by an informant who had been placed in his cell by the Government.

The case had been argued in the Fourth Circuit by Jim Moody, '79, while he was a student enrolled in Georgetown's Appellate Litigation Clinic. Most of the credit for the brief in the Supreme Court goes to another student in the Clinic, Linda Marasco, '80. The case was argued on January 16 by Professor Michael E. Geltner, Director of the Clinic, and he was accompanied and aided by Professor William W. Greenhalgh. Another person who worked on the case is Professor Larry J. Ritchie who was on leave for 1979-80.

#### Stanford Gets Chair & Money

The Stanford Law School recently received two substantial grants from private sources. Mr. and Mrs. Kenneth F. Montgomery of Northbrook, Illinois, have endowed the Kenneth and Harle Montgomery Professorship in Clinical Legal Education. Professor Anthony G. Amsterdam has been named the first holder of the chair.

At one of the meetings during the conference, Bill Pincus, President of CLEPR, and Dean Rivkin, Cochairperson-elect of the Section, addressed the group. In his brief comments, Mr. Pincus expressed his approval of what he was observing at Big Sky and stated his optimism that the clinical legal education movement would continue forward. He queried whether we would still meet and discuss our theories so openly once we've become the establishment.

Professor Rivkin discussed the exciting things being done by clinical teachers and reminded us that we are part of a growing movement in legal education which is questioning the traditional doctrines of legal education and examining the legitimacy of law practice as it is known today. He called on clinical teachers to support each other and to organize our large constituency during this period of retrenchment. Professor Rivkin concluded by pointing out some of the boundless possibilities for research and writing by clinicians and he called on us to increase our interest and activities in these matters.

An unscheduled presentation was made on Friday evening by Hermez Moreno of UCLA who expressed his personal views about "modality" and "negatory feedback." Following this lecture, the official work of the conference ended, but many adjourned to the bar as the guests of David Gottlieb of Kansas who contributed his winnings on the Leonard-Duran fight for this purpose.

The AALS has already committed funds to hold a Fifth Conference next year. Your ideas about what that meeting should include will be solicited in the next Newsletter.

Special Committee Issues Interim Report -  
Executive Committee Receptive

The Special Committee on Clinical Education, which was established by the AALS Executive Committee in January, 1980, has submitted an interim report which the Executive Committee received and discussed at its August meeting. The report contained recommendations that the AALS increase its support for clinical education by providing more services to clinical teachers and by affording more opportunities for clinicians to share ideas and participate in workshops. The Special Committee also recommended that the AALS establish a standing Committee on Clinical Education. This recommendation and most others in the report were received favorably by the Executive Committee which is asking for a final report before its November meeting when it's expected to act formally on the Committee's recommendations. The members of the Special Committee (Dean William D. Warren, UCLA (Chairperson); Dean David S. Ruder, Northwestern; Dean Kenneth L. Penegar, Tennessee (presently visiting at Harvard); Gary H. Palm, Chicago; William W. Greenhalgh, Georgetown; and Judy R. Potter, Maine) will meet again in October.

Guidelines To Be Released

The long-awaited Guidelines on Clinical Education, prepared by a joint committee of the AALS and the ABA Section of Legal Education and Admission for the Bar, will be released in September. Copies will be distributed to full time faculty members, and you can obtain a copy for free through the AALS if one doesn't arrive by mid-September.

ABA Meeting Significant

At its annual meeting in Hawaii, two Sections of the ABA took steps that could have significance for clinical education.

The Section of Legal Education and Admissions to the Bar revitalized its Clinical Education Committee and greatly increased its budget. The Council of the Section also considered a number of recommendations from its committee to implement the recommendations of the Cramton Report and voted (6-5) to adopt (inter alia) the following proposal for amendment of Standard 302(a) of the ABA Standards for Approval of Law Schools:

302(a) The law school shall:

(iii) offer training in professional skills, including trial and appellate advocacy, counseling negotiation and drafting;

This proposal will be circulated for comment and public hearings will be held. Tentative plans are to hold public hearings at the time of the AALS Annual Meeting in January, 1981, and the ABA Midyear Meeting in February, 1981.

The Criminal Justice Section unanimously adopted the following recommendations of its ad hoc committee on teaching criminal trial advocacy:

BE IT RESOLVED, That the Criminal Justice Section continue to monitor the area of teaching criminal trial advocacy, and address the following issues;

- 1) whether the Section and the ABA should develop minimum standards of criminal trial advocacy, perhaps in concert with the Standing Committee on Association Standards for Criminal Justice:
- 2) the use of student practice rules to implement the recommendations of the Devitt Committee and any subsequent action of the Federal Judicial Center; and

Already, volunteers have offered to begin clearinghouses in two very important areas: (1) examinations for lawyering skills and (2) status of clinical educators.

(1) Associate Professor John Barkai (Hawaii School of Law, 1400 Lower Campus Road, Honolulu, Hawaii, 96822) is willing to act as a clearinghouse for examinations which test clinical students in lawyering skills. Please send him any exams which you have used. If possible, a brief explanation of each exam should be prepared which describes the purpose of the exam, how its administered, the context in which its given (the type of course, what weight it plays in determining the final grade, etc.); an analysis of the results, and a statement about your degree of satisfaction with it and any plans for changing it.

As these are received, Professor Barkai will try to categorize and analyze the exams and the next Newsletter will report what is in the bank and how you can use it.

(2) Clinical Associate Professor Stacy Caplow (Brooklyn Law School, 250 Joralemon Street, Brooklyn, New York, 11201) has prepared the questionnaire found at the end of the Newsletter. It was prepared in response to a need articulated at Big Sky to collect more data respecting the status of clinical teachers. The information sought will form a "bank" since it is uncertain whether the answers can be reduced to working statistics.

This is a first step and some of the areas will require further inquiry. However, as much information as possible is desired, so elaborate whenever you feel the need. Please answer as individuals unless a more general response is appropriate. The form will be sent to only those clinicians who are members of the Section, and it would be appreciated if you make sure that all clinical teachers at your school receive a copy.

In going through the form, please try to indicate when the answer to a question would be different for a nonclinician at your school.

Please return the completed forms to Professor Caplow, and the next Newsletter will report whatever results are available.



D. Teaching responsibilities:

Fieldwork: no. of students/semester: no. of cases:

Classroom: lawyering skills (interviewing, trial advocacy, etc.)

Classroom: traditional Which course(s)?

E. Administrative responsibilities? % of time:

F. Quality of support services (excellent, good, poor)?  
clerical \_\_\_\_\_ office space \_\_\_\_\_ books \_\_\_\_\_  
library access \_\_\_\_\_ travel \_\_\_\_\_

G. Sabbatical Eligibility?

IV. SUMMER RESPONSIBILITIES

A. Teaching? Classroom? Fieldwork?

B. Case work (no students)?

C. Research?

D. Administration?

V. SALARY

A. Are there any differences between salary scales of clinicians and non-clinical faculty?

B. If yes, are salaries of clinicians pegged to any other group (e.g., public defender, attorney general)?

C. Are there any differences in fringe benefits?

VI. RETENTION

A. Who participants in review? Who makes final decision?

B. How frequent is review? Is there a deadline date? When?  
Is there notice requirement?

C. What are factors on which you are evaluated?

D. What are procedures?

E. Do you consider clinical teaching to be a career track? At your school?  
If either is no, why not?

F. Are retention expectations different from junior or senior clinicians?  
Explain.

G. Are expectations for your future at the school made clear at time of hiring?

VII. PROMOTION

A. Is promotion in rank possible for clinical teachers at your school?

B. If so, list the ranks and the normal length of time in each rank before promotion eligibility.

C. Does your clinic have an internal hierarchy (e.g., Director, Assistant Director)? Is internal promotion possible? List titles in hierarchy:

D. If internal hierarchy includes a Director, has he/she usually been chosen or promoted from within the program? If no, why not?

VIII. COMMENTS Please feel free to make additional comments.

NAME \_\_\_\_\_

Return to:  
Professor Stacy Caplow  
Brooklyn Law School  
250 Joralemon Street  
Brooklyn, New York 11201

LAW SCHOOL \_\_\_\_\_

DATE \_\_\_\_\_

QUESTIONNAIRE ON ISSUES OF THE  
STATUS OF CLINICAL EDUCATORS

(Please continue answers on back if extra space is needed)

If there have been any written reports or recommendations concerning clinical education at your school since 1975, please attach a copy. If a study is underway or anticipated, when is completion expected?

I. HIRING

- A. Who made the hiring decision (e.g., full faculty, Dean, clinical director)?
- B. What was the procedure?
- C. How long after law school were you hired? What year?
- D. What did you do during the intervening years, if anything?

II. TYPE OF PRESENT APPOINTMENT (check or circle applicable answers)

- A. Basis of employment: 9 months; 12 months; other;
- B. No tenure eligibility: written or oral contract?  
How long is the term? Is the contract renewable?
- C. Tenure - eligible:  
If traditional - how long is the tenure track?  
If clinical only - how long is the tenure track?
  1. Are the standards applied to you the same or different from other faculty members? Specify differences.
  2. If publication is required, are alternate forms acceptable (e.g., appellate briefs, articles on legal education, etc.)?
  3. Are the procedures different? Specify differences.
  4. Do you perceive that tenure applications made by clinicians have or will be treated differently than those of non-clinicians? By other faculty? By the university?

III. STATUS

- A. Title and rank \_\_\_\_\_
- B. Faculty membership:  
Attendance permitted/required at faculty meetings? Voting or non-voting?  
Membership permitted/required on committees? Voting or non-voting?  
Participation limited to clinical issues?
- C. Are you governed by the faculty rules and regulations?  
Of so, please attach a copy.