SECTION ON NEWSLETTER

CLINICAL LEGAL EDUCATION

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MESSAGE FROM THE CHAIR

By
Gary Palm, Chicago

Scholarship and Clinical Education

The continuing debate about the role of scholarship in clinical education has recently heated up with the position taken by Dean Susan Prager, UCLA, the President of the Association of American Law Schools, in her recent President's Message in the June, 1986 AALS Newsletter that law schools should require clinical teachers to produce scholarship by which she means research and publication. Dean Prager is a friend and supporter of what she recognizes as a "new and powerful theme" in legal education brought about by the clinical education movement. She accurately identifies the central feature of clinical education: "Its organizing principle has been the introduction of 'the client' into our schools." Yet I believe that some of the issues that Dean Prager did not address must be resolved in a way consistent with maintaining excellence in clinical teaching and learning through representation of clients or else the future of clinical education is threatened. Accordingly, I raise some questions, criticism and concerns. Along the way I will make some proposals that I hope will be addressed by various Committees of our Section and by those in power in the AALS and legal education.

The principal problem with Dean Prager's suggestion is that it may undermine the very goal of the clinical education movement--to reform legal education by emphasizing the training of law student lawyers. Her proposal may have this effect because it does not adequately answer the crucial questions of how clinical scholarship should be funded and what form clinical scholarship should take. If clinical scholarship is funded from resources currently devoted to clinical education, then those few resources which the law schools currently devote to clinical education will be reduced. Moreover, if all clinicians are required to perform traditional scholarship and must have the same skills and interests as academicians, then the value of adding clinical teachers to the law school community will be significantly reduced. It is the nature of clinical education to demand diversity so clinical teachers can be included who are excellent lawyers and teachers but do not produce traditional scholarship.

How Should Clinical Scholarship Be Funded?

One issue that Dean Prager does not adequately address is how should clinical scholarship be financed. I agree that if scholarship is required, clinical teachers must be given "concrete research support in

the form of such things as leaves and fair teaching loads..." If Dean Prager's proposal would have the clinical program's budget pay for these added expenses, rather than the law school's academic budget, then I disagree. But before scholarship is required, this issue must be confronted. Dean Prager seems to recommend reducing the clinical education program to underwrite these research and publication requirements. Dean Prager states "[Achieving the ideal of research for clinicians] depends equally as much on the commitment of individual clinicians to place a priority on writing, even if less time and fewer law school resources will be devoted to serving clients." (emphasis added)

What Dean Prager overlooks is that at most clinics, reducing the number of clients served also reduces the number of students taught. Taking time away from clinical teaching will also harm the quality of supervision and limit the types of cases and lawyering skills that can be used. There are very few clinical programs left today which are designed solely to meet service burdens or are totally dependent upon service funding. Rather, most programs, particularly in-house programs with full time clinical teachers, are designed primarily to achieve educational goals. In fact, many programs eschew service goals altogether (a position I disagree with and may discuss in my next Message). Therefore, for most programs, reducing the number of clients, means reducing the number of students even while there still remains a great unmet demand for quality clinical instruction. To further increase the costs of clinical education may discourage schools from starting or expanding clinical programs leaving many interested students without a quality clinical experience during law school.

Something must give if these expenses are charged to the clinical budget and if ongoing work on important cases and other efforts to improve the system within the context of one's clinical practice will not be deemed scholarship. The necessary result of requiring scholarship is to further raise the expense of clinical education forcing clinicians to "free up" much of the work week for research, as is required for academics through the various work rules established by the ABA and the AALS accreditation standards. The reality is and has been that clinical teachers already work full weeks. Many of us must be on twelve month appointments which further reduce the free time available for publication efforts. In fact, I venture to say that if hours were kept at most schools, the hours worked by clinical teachers would equal or exceed those worked by non-clinical teachers. As I have learned in many discussions with clinical teachers this year, time for clinical scholarship must come from clinical teaching.

Another danger is that the educational program may become subordinate to "scholarly" demands. Quality clinical teaching and learning may suffer as clinical teachers try to "free up" time by downplaying the key element of clinical teaching-collaboration with students on actual cases. Routine cases with routinized procedures and form documents may have to be adopted to free up time. Wholly simulated courses or computerized instruction may replace the intense supervision by the clinical teacher. After-the-fact critiques with their limited potential for understanding how and why the student made the choices that are being critiqued may replace the modeling

and continual critical analysis that we use in collaboration with students. Some schools may even move to some sort of farm-out approach with limited supervision by law school faculty and thereby "free up" clinical teachers to write articles.

Rather than reduce the resources devoted to clinical teaching, schools should pay for the additional scholarship from other resources. Otherwise, clinical teaching must suffer. Dean Prager avoids coming to grips with this consequence of her proposal. My position is that clinical teaching budgets should remain constant so that law schools do not extend to clinical teaching the current imbalance between teaching and research which exists in the rest of the modern law school.

Clinical teaching has been a latecomer to law schools and even now, twenty years after its modern beginnings, has been accepted in only a small way. Many schools still do not have strong clinical programs staffed by full-time clinical teachers. At every step of the way, some academics have opposed the introduction of the clinical method or have tried to put requirements on it which limit its effectiveness or undercut its potential for excellence. Unwittingly, requiring scholarship for clinicians funded from clinical resources may well be the most dangerous requirement yet. Those who urged passage of 405(e) left other alternatives for law schools unwilling to fund clinical scholarship. But for schools requiring scholarship, additional nonclinical resources must be allocated to support it.

I urge Dean Prager and others in leadership positions in legal education to join in efforts to require that before schools can place scholarly-type publication requirements upon clinical teachers, they must demonstrate (1) that those clinical teachers will have free time from reduced teaching loads and research support comparable to that available to academics; (2) that funding for the teaching aspects of clinical education will not be diminished thereby; (3) that the number of students involved in the program and the types of clinical experiences will not be changed solely to accommodate the publication responsibilities of clinical teachers; and (4) that any alteration of the clinical teaching program, including supervision ratios, types of cases used, time spent in supervision and the choice of teaching method to accommodate publication requirements, should demonstrably improve the teaching and learning before any accommodation is permitted. These rules should apply for new programs as well as old ones. The purpose is to assure that pedagogical objectives remain paramount in the design of clinical programs.

So, how will law schools fund the scholarship requirement? First, if we assume that law schools have determined the amount of their budget to be allocated for scholarly work by their faculty, that pool of funding will either have to be increased or support will have to be reduced for non-clinical scholarship. Existing budgets will most likely have to be reallocated and law schools will need to greatly increase, perhaps even double, the size of clinic faculties to maintain clinical instruction levels. Teaching loads will have to be reduced during the school year to permit scholarship by all clinical teachers as part of their daily work.

Another alternative would be to rotate clinical teachers so that they receive concentrated periods to work full-time on their publication duties. Either approach requires many more clinical appointments. It may be that in order to support clinical scholarship and retain strong clinical teaching, schools will need to reduce the number of academic appointments that are made. Alternatively law schools will need to increase the resources available for legal scholarship by raising tuition, obtaining increased government support for research or by obtaining increased allocations from University resources. These funds must be identified by the proponents of mandatory clinical scholarship if quality clinical teaching is to be maintained.

What should be considered Clinical Scholarship?

Dean Prager proposes an expansive definition of scholarship which includes "materials... to assess and teach the many skills lawyers need" and use of "the empirical base inherent in varied clinical settings" as well as traditional law review articles and books. At most schools clinicians should be wary about relying on this definition at least in choosing a tenure piece. They would be better advised to do a "compulsory figure" -- the customary law review article. But Dean Prager is proposing a commitment to scholarship by clinicians throughout their careers not just for tenure and there her definition is helpful.

But does Dean Prager's definition go far enough to overcome some of the conflicts between clinical teaching and scholarship? I think not. At schools requiring scholarship, the form should be consistent with the central concepts of clinical teaching. By bringing "the client" into the school, clinical education necessarily added two components to legal education: 1) requiring students to be professionally responsible; and 2) professional collaboration between student and teacher. For me the proper questions to be answered are: 1) What kind of scholarship should lawyers produce? and 2) Can clinical scholarship be the result of the same kind of collaborative involvement with students that occurs in representing clients in the clinic?

As to scholarship by lawyers, I start from the position that lawyers cannot and should not produce unbiased scholarship in areas in which they regularly represent clients. For example, it would be inconceivable for a clinical teacher representing clients in employment discrimination cases to criticize affirmative action in Title VII litigation. Such an article would be relied on by every adversary thereafter. On the other hand, an article concluding that statutory construction and public policy support affirmative action would surely be seen, and properly so, as a partisan piece. Many would say it therefore falls outside the realm of scholarship as surely as if the researcher had been hired by a civil rights organization to write it.

My own view is that such "biased" scholarship should be permitted and encouraged so long as the biases are made known to the reader. Clinical teachers could then produce advocacy scholarship which presents arguments that other lawyers can use on behalf of their clients. Such articles

would look remarkably like arguments in briefs filed in actual cases except that they would be more comprehensive, answering arguments not actually raised in the case. In effect, we would convert our briefs into articles. Many of us have prepared memoranda evaluating possible litigation or particular arguments which could also readily be converted into advocacy pieces.

"Biased" articles should qualify as scholarship. New ideas and arguments are disseminated and available for discussion and criticism by others than the advocates in the particular case. The same kind of rigorous analysis of legal doctrine and policy considerations must be undertaken as for traditional articles. If the reasoning is sound and the arguments persuasive, the reader will agree with our position just as courts do in litigation.

But where would advocacy articles be published? Maybe law reviews would accept them. Some articles are entitled "The Argument for ...." Elliott Milstein, among others, has proposed a journal for clinical scholarship which would include advocacy scholarship.

The second question is more troublesome because permitting collaboration on clinical scholarship will alter the content of the clinical experience for students. To the extend that students and teachers are collaborating on scholarship, they are not involved in the many lawyering skills that clinical education has introduced into legal education. It has even been suggested that students should be <u>required</u> to engage in clinical scholarship. Being self-critical and reflective about one's work are also major goals of our instructional method. Analyzing the elements of excellence in interviewing, counseling, fact investigation, negotiation and litigation skills should be an ongoing process that students' continue throughout their careers. For example, students might be expected to identify new arguments to improve the law or new systemic reform issues or might develop improved procedures for preparing cases or performing skills. So, I am not concerned that students undertake clinical scholarship if academic credit is increased appropriately and fair recognition is given to them.

Should clinical teachers be permitted to conduct their research collaboratively with students in a team approach much as is done in the sciences? It seems to me that truly complex mixed questions of fact and law arising in clinical scholarship require more than one mind. Team research and publication would allow for the same kind of collaborative effort we now employ with students. The clinical teacher would manage the project, assigning different issues and coordinating the results but would no longer be the author in the traditional sense. Such a team approach to clinical scholarship would allow us to keep collaboration as a major feature of our teaching and would fully involve students responsibly in the important and serious work of clinical scholarship. Otherwise, we will see more clinical teachers going away from the clinic to conduct their scholarship isolated from the strength of their skills as teachers and lawyers.

Clinical Teaching is ENOUGH PAIN!

Where I part company with Dean Prager completely is in her failure to recognize the significant work of clinical teachers to improve the law, legal processes and government, particularly as they affect the poor, the handicapped and the institutionalized. The ultimate goal of scholarship should be the same. According to Dean Prager: "Separate faculty systems make it easier ... for clinicians to avoid the pain of putting their ideas into the world." Every brief or memorandum filed in court, every oral presentation in court is subject to the often immediate criticism of that court and one's adversary. Moreover, the stakes are more serious than simply a loss of esteem among peers. A client's life, liberty or property is at stake. Clinicians have made arguments before courts at every level from the United States Supreme Court on down. Some of the most important litigation conducted on behalf of the poor during these years has been conducted by clinical teachers in the context of student supervision and training. Through this process students have been taught how to make a record to present an issue for review and set the seeds for reversal as well as how to develop affirmative impact litigation. Is it wrong to spend some limited resources of legal education on representation of the poor through direct service and systemic reform efforts?

Surely if the issue is improvement of the law and legal institutions, representation of poor clients through processes that attempt to bring about these results is scholarship. Put another way, we need not speculate whether our work will be read by others and may or may not have an impact upon the law. It must have an impact because it results in real decisions by courts, which have precedential effect for others in the future. Indeed, it is our work on behalf of real clients, when planned and structured to have impact for the future that makes real changes.

The real question underlying a scholarship requirement may be whether clinical teachers will be allowed to become part of the law school world or will first have to change and become academics. The argument really sounds the same as when an earlier President of the AALS made his repeated distinctions between "scholar clinicians" and "non-scholar clinicians". For me, clinical teachers who supervise students in representing poor clients and endeavoring to reform the law in the process should be given job security without providing any other scholarship.

The chief motivation for many to enter the clinical movement and work so hard for its advancement has been to reform American legal education. Dean Prager and I agree that the core of the clinical reform has been the introduction of the client into legal education. But also a significant part of the motivation was simply to put a new emphasis on learning by having law schools become truly concerned about what students learn. Our new methodology takes students seriously as adults and lets them practice law under supervision. We know there is something about this process, about undertaking professional responsibility to a client, which in and of itself creates the potential for learning. Yet, demands for scholarship end up too frequently undercuting that very learning. If teachers spend more time on scholarship, in the process students will have less

opportunity to learn. They may even learn the wrong lessons. They may learn to churn out cases rather than prepare each case thoroughly and try to use each case to reform the law and practice. As clinical teachers refuse to appeal their losses or refuse to handle complex or significant cases, students learn that poor clients in law school clinics are not given the same service that they would get if they could afford to hire a lawyer. Instead this may be the only opportunity in law school that students will have to learn that they have a professional responsibility at least under the proposed ABA Code of Professional Responsibility to prove representation to poor persons for free. Law schools should teach students by example that they have a career-long professional obligation to provide their best services to the poor and to endeavor through each case to seek justice and reform.

Action For the Section

I look forward to discussing these issues with many of you (and Dean Prager) at the UCLA Arrowhead Conference and at the AALS Annual Meeting. I am asking the Committee on the Future of the In-House Clinic to address these issues. Also, Lois Knight, Boston University, has agreed to be the new Chair of the Tenure and Promotion Committee and I am asking that Committee to explore the whole question of clinical scholarship as it relates to tenure and promotion.

COMMITTEE NOTES

TAP

The Tenure and Promotion Committee remains willing to assist clinical teachers with problems concerned with the implementation and effects of 405(e), tenure and promotion. Among other services, the Committee has a list of section members from around the country who already have tenure and who are willing to be contacted to answer questions and be an advisory source. Clinical teachers needing assistance are encouraged to contact Lois Knight, Boston University for assistance.

LEGAL SERVICES

Paula Galowitz, NYU, Chair; John Capowski, Maryland; Mary Wolf, Indiana; Mark Weber, Chicago, Pamela Walker, Akron; Barry Strom, Cornell; Ellen Scully, Catholic; Ken Rothstein, Hofstra; Betsy Fuller, Cornell; Marie Failinger, Hamline; Dean Hill Rivkin, Tennessee; James Klein, Toledo; Peter Hoffman, Nebraska; Stanley Herr, Maryland; Jeff Hartje, Gonzaga; Peter Erlinder, William Mitchell; Doreen Dodson, Saint Louis; Liz Ryan Cole, Vermont; Marie Ashe, West Virginia; Peter Aron, George Washington; and Noah Funderburg, Alabama (Tony Szczygiel, Buffalo; Kathleen Sullivan, Brooklyn; and Susan Kovac, Tennessee attended the committee meeting at Boulder).

The Committee has focused its attention on the funding of clinical programs by the Legal Services Corporation. There had been some sentiment amongst the Board of Directors of LSC that law school clinical programs

could take over the role of providing national support services in the legal services program. A letter opposing that idea was drafted by John Capowski and signed by over one hundred clinicians and sent to Congressperson Neal Smith and Senator Rudman. While LSC did not proceed with this idea, the Board at its June meeting unexpectedly decided to terminate direct funding for national and state support and Clearinghouse Review and instead give the money to the field offices.

LSC issued its interim report on the fourteen law school clinical programs that LSC funded from September, 1984 until June, 1986. The committee is in the process of obtaining additional information from LSC and preparing an analysis and evaluation of the interim report. Members of the committee have contacted most of the schools that received funding to obtain information that was not in the interim report. There is a consensus of the members of the committee that the data relied upon for the report's conclusions were suspect. There were many problems with the report, including the design of the research and the conclusions drawn from the report.

There is a lack of consensus amongst the members of the committee as to whether clinical programs should apply for grants from LSC. However, there is agreement that clinicians should be involved in the selection and review process. In the past, only one clinician was a reader for the grant applications. This year we requested that the panel be peer review and that at least a majority of the readers be clinicians. LSC did not agree to this but did agree to have two law teachers, Gary Palm and Dean Art LaFrance, be readers. We also requested that the grading sheets of the evaluators of the clinical grants be available under the Freedom of Information Act. LSC has not yet responded to this request.

NOMINATING

The Nominating Committee is soliciting recommendations for nominations for Chair-Elect of the Section and the Executive Committee. Please contact Gary Palm, Chicago, with your suggestions.

BITS AND PIECES

OVER 150 CLINICIANS SIGN LETTER OVER LSC SUPPORT CENTERS

Concern over the future of the LSC funded national support centers and proposals to shift their functions to law school clinical programs has led 170 clinical teachers to sign a letter to Congressman Neal Smith supporting the centers. Despite the letter, the LSC Board voted to transfer funding from the centers to local programs. Efforts are currently underway in Congress to reverse this decision. The text of the letter follows:

April 25, 1986

Dear Congressman Smith:

We are writing to you to express our concern about recent suggestions by Directors of the Legal Services Corporation that law school clinical programs could take over the role of providing national support services in the legal services program, and to urge you to reject any such approach in your decisions about funding for legal services. As teachers in law school clinical programs who are familiar with the work of both legal services field programs and support centers, we do not believe that clinical programs can provide the range of services that poor people need and currently receive from national support centers.

Our conclusion flows from the conflict between the educational function of clinical programs and the service function of support centers, the emergency and often protracted nature of the support needed by local legal services programs, the fluctuating work capacity of clinics, and the need for staffing support programs with specialized and experienced attorneys.

The fallacy of LSC's suggestion is demonstrated by comparing what support centers do with what clinical programs do and can be expected to do. Each support center focuses on a particular area of law that is especially applicable to the problems of poor persons and is staffed principally by persons who have established expertise in the area and substantial legal experience. Every day, the centers respond by phone or letter to numerous requests for assistance from legal services lawyers and other advocates across the country. Often these advocates need immediate assistance with a client problem and the problems they present range from matters that can be handled in a few minutes to matters that require hours or even days of work. The centers also act as counsel in difficult and protracted litigation as well as in administrative and legislative proceedings. They produce specialized publications, including prompt notices of important changes in the governing law, to educate and assist advocates and the clients themselves.

While the focus of the national support centers is solely the provision of client service, the focus of law schools and their clinical programs is education. There is necessarily a conflict between the goal of educating and the goal of providing cost effective support to local legal services programs and their clients.

Clinical programs, while providing high quality assistance to those persons they service, need to limit the numbers and types of cases handled, and one of the major case selection factors is the educational value for students. As a result, clinical programs could not handle the volume of major matters handled by support centers and would have to use selection criteria that looked as much if not more to educational goals as to the needs of the client population.

Also, clinical programs must coordinate their work on matters with the academic calendar. Activity in clinical programs is at a high level during the two major academic semesters, but the interruptions of intercession, exam periods, and summer recess slow the pace of a clinical program's work. Scheduling case acceptance and service work around these

periods is not compatible with the responsibilities of support centers.

Even during the times when the clinics are in full operation, they are not in a position to handle the service work of the support centers. When local programs contact support centers for assistance, they often need advice and counsel in a hurry. They need help from staff that is always there and that has the expertise to respond quickly. Students are not always there. In addition, because of a lack of expertise, they would most often need to research an area to respond to an inquiry. Because of their other commitments including classes, work, and involvement in school activities such as law review and moot court, they would often need large amounts of time to research an area and become familiar with it. No matter how solid their conclusions ultimately were, this type of response usually would not meet the day by day need for assistance.

Clinical programs also could not effectively take over the role of support centers in major litigation of an ongoing nature. Most students work in clinics for only a semester or an academic year. While the clinical supervisors remain, this method of staffing assistance to local programs in long-term litigation would be less effective than the current staffing of support centers. The centers have attorneys who provide strong continuing relationships with persons in the field programs and who have an intimate knowledge of the protracted litigation in which these local programs are involved.

In addition, law schools and their programs may find that time pressures are actually interfering with their teaching mission. When the clinical supervisor and his or her students need to provide quick advice, that supervisor may be unable to take the students through a reflective and methodical process that will help them gain significant insights into legal work and their own abilities to function as practicing attorneys.

Also, clinical programs are best at teaching a wide range of lawyering skills and introducing students to role issues and other issues of professional responsibility. Although research and writing, one of the tasks required of support center staffs, can be an integral part of clinical programs, these tasks should not be the main focus of clinical programs which are so very able to teach a wider range of lawyering skills. Funding support functions through law schools will compromise both the educational goals of these schools and the support and assistance functions of the support centers.

Clinical faculty are extraordinarily well qualified for the work they do, and clinical students are often both highly intelligent and highly motivated, but these persons are clearly less qualified to provide services to back up local programs than are the staff of support centers. Many of these support center attorneys have been involved in their specialized areas of law for many years and have both the theoretical basis and practical experience in particular areas that allow them to provide efficient and effective assistance to local programs.

In addition, clinical faculty generally lack the experience of

- separate clinical tenure track
- long term contracts

10:15 - 10:30 a.m. Coffee Break

10:30 - 12 noon Workshops

1. Beginning Clinicians - Teaching Ability
   What Goes In: syllabus, materials, case load, supervision, evaluation, grading

   What Comes Out: pre-performance, classroom teaching, 1:1 supervision, and post-performance critique

2. Intermediate Clinicians - Scholarship-Traditional, Non-traditional, and Whatever

12 Noon - 1:15 p.m. Luncheon - Speaker

1:30 - 2:45 p.m. Workshops

1. Teaching Substantive Law - Can a Clinician Teach Local Government Law

2. Externships - Do They Have a Place in Law Schools?

2:45 - 3:00 p.m. Coffee Break

3:00 - 4:00 p.m. Sexual Harassment in the Workplace
Supervisor vis a vis Student, or vice versa

4:00 - 4:30 p.m. Miscellaneous - Ask Not What Your School Can Do for a Clinic, Ask What Your Clinic Can Do for Your School

4:30 - 5:00 p.m. Conference Evaluation

GEORGETOWN'S BLACK SOUTH AFRICAN LAWYERS PROGRAM

On July 13, 1986, five black attorneys from South Africa arrived in the U.S. to begin working toward masters degrees in advocacy, at Georgetown University Law Center. Each attorney has been awarded a Fulbright Fellowship and the U.S. Information Agency contributed financially to the program. The attorneys began their training with an intensive one month orientation to the U.S. legal system that Georgetown offers to foreign attorneys in conjunction with the International Law Institute.

Following this course, they embarked upon a rigorous three week induction into the U.S. criminal law system. Georgetown's Professor William Greenhalgh, Director of the Criminal Justice Clinic, along with Fellows in the Prettyman Intern Program, is supervising their experience as members of this clinic. Professor Wallace Mlyniec, Coordinator of Clinical

support center attorneys in the relevant areas and have focused their efforts on activities other than those best suited to providing assistance to attorneys practicing in specialized areas of poverty law. Their efforts stress their primary function, teaching, as well as lawyering, scholarly research and writing, and the committee and administrative work that is a part of academic life.

For all these reasons, clinical programs cannot take over the role of providing national support and any such attempt would seriously injure legal services clients.

[signatures]

ABA COUNCIL ADOPTS FAIR NOTICE POLICY FOR 405(e)

The Council of the ABA section of Legal Education and Admissions to the Bar has adopted a policy regarding fair notice of replacement or termination of professional skills teachers hired prior to the adoption of amended standard 405(e):

> The Council is informed that, during the process generated by the August, 1984, amendments to Accreditation Standard 405(e), certain law schools may have replaced or otherwise terminated the employment of professional skills teachers who were hired prior to the adoption of amended Standard 405(e) with insufficient notice.
>
> The Council encourages any school that decides not to continue in service a professional skills teacher hired prior to the adoption of amended Standard 405(e) to provide sufficient notice to the teacher to allow a fair opportunity to seek another position.

PLANS FOR ANNUAL MEETING

The AALS Annual Meeting will be held in Los Angeles, this year and, as part of it, the Section on Clinical Legal Education will present a one day workshop on January 3, 1987. This is before the start of most other section programs permitting clinical teachers to participate fully in our section's activities as well as the rest of the programs.

Bill Greenhalgh, Georgetown, has set new records for alacrity in the planning of this year's program. More details will be presented in the next issue of the Newsletter, but the schedule now reads as follows:

January 3, 1987

8:00 - 10:00 a.m.	Registration - Distribution of Materials
9:00 - 9:30 a.m.	Clinical Legal Education - Review or Deja Vu
9:30 - 10:15 a.m.	§ 405(e) - 3 models - regular tenure track

Education, will be working with attorney Angela Jordan Davis, of the Public Defenders Service, to construct and teach a special course in trial advocacy. The South African attorneys will also be enrolled in a Constitutional Law class and several elective courses.

Professor Edward L. O'Brien, Co-Director of the D.C. Street Law Clinic is the inspiration and the drive behind this program. After a month long tour of Southern Africa and several legal institutions in the region, Mr. O'Brien was amazed at the number of legal professionals, both black and white, who were calling for greater educational opportunities for black lawyers. Due to the abhorrent system of apartheid, black students in all disciplines receive training which is inferior to that provided whites. Consequently, there is a dirth of black attorneys (approximately 215 for the entire country compared to nearly 6,000 whites) and an even smaller percentage of black advocates, which are similar to British barristers (approximately 20).

These five attorneys are scheduled to graduate in May and, if all goes as planned, a second group will be arriving next July.

Fawn Wilderson, a third year student at the Law Center is assisting Mr. O'Brien in coordinating the program. All questions about the program should be directed to her or Professor O'Brien at (202) 662-9620.

EXTERNSHIP MEETING HELD

By

Liz Ryan Cole, Vermont and Nancy Daniels, Florida State

In May of this year at the National Clinical Teachers Conference in Boulder, a small group of people gathered to discuss externships. Little agreement was found about what an externship is, scant information was available about how many schools offered externships, and confusion abounded about whether there was enough interest in the topic to warrant a meeting on the subject. As an outgrowth of the meeting, Liz Ryan Cole, Vermont organized a follow-up meeting at Vermont Law School. Attending the meeting were Liz Ryan Cole and Ken Kreiling, Vermont; Roy Stuckey, South Carolina; Keith Harrison, Northern Illinois; Marcus Hearn, Franklin Pierce; Joe Baum, Albany; Harold McDougall, Catholic; Rick Wilson and Sue Carpenter, CUNY-Queens; Jim Cohen, NYU; and Nancy Daniels, Florida State. Approximately 25 others said they were unable to attend, but wanted to know what happened.

The primary focus of the meeting was the ABA's current development of criteria for placement clinics under Standard 306. Roy Stuckey as Chair of the Skills Training Committee of the ABA section on Legal Education and Admissions to the Bar has catalogued a number of suggested criteria from the Boulder discussions and Janet Motley, Calif. Western, had responded negatively to some of the suggestions. Dean Rudy Hasl of Washington School of Law in St. Louis, a member of the Accreditation Committee, had also submitted a proposed list of criteria which were as follows:

1. All Standard 306 programs shall be approved by the faculty and

the dean by the same procedures established for the approval of other parts of the academic program.

2. The faculty shall determine the appropriate class hours, residence, and academic credit to be awarded for the program.

3. There shall be a written statement of the educational objectives (and the tasks) which the students are expected to perform for each type of Standard 306 program approved by the faculty.

4. The educational objectives and the student tasks shall be communicated to the students and field supervisors.

5. Each clinical Standard 306 category of placement program shall have a supervising faculty member, for whom the teaching of professional skills is a significant professional obligation.

6. Consistent with applicable ethical rules and considerations and attorney-client confidentiality, written student work requiring analysis or critique shall be submitted to the supervising faculty members.

7. The supervising faculty member has an independent obligation to make a qualitative review of the student's work product and to communicate an evaluation of that work to the student.

8. There shall be a classroom component for each type of Standard 306 program prior to, during, or subsequent to the clinical experience, which has as its principal focus a discussion of the objectives of the clinical experience and an opportunity to reflect upon the experiences of the students in the program.

9. The supervising faculty member shall establish procedures to monitor effectively the field supervision of the student to ensure satisfaction of the educational objectives of the program.

As people arrived in the morning, the various participants outlines their own programs. These included externships with limited law school intervention and numerous variations encompassing classroom components, tutorials, training seminars for field supervisiors, prerequisite simulation courses, journal requirements, and use of individual learning agendas. This was followed by some general discussion about Roy Stuckey's list of suggested criteria, particularly the suggestion of (1) requiring classroom components, and (2) limiting the subject-matter focus of externship courses. The consensus on classroom components seemed to be that they made sense for programs in which more than a few students extern in common subject area placements or in centralized geographical areas, but not in small programs which are geographically separated from the law school and/or involve only one or two students. This led to discussion of what the proper goals of externship programs are - skills training, exposure to procedural aspects of practice, substantive learning, or what? Again the consensus was that each program has different aspects and goals,

and therefore a flexible standard not limiting the range or variety of externship programs should be developed.

Another question which came up in this part of the discussion was how much interaction faculty supervisors really need to have with their students and field supervisors during an externship. If competent field supervisors are selected, isn't the faculty supervisor just second-guessing the field supervisor if he or she asks too many questions, or probes too far into specific case decisions? The sense of the group on this issue was that faculty supervisors can and should be involved with the students and their supervisors during the externship to (1) monitor the student's activities and make sure they are having a productive experience, (2) suggest options in making specific case decisions, (3) give a sense of ethical perspective and (4) stimulate thought on the larger issues surrounding daily practice.

Liz Ryan Cole opened the lunch discussion with an inquiry about confidentiality, specifically whether law school faculty members could properly be informed of sensitive information known by students without violating lawyer/client privileges or, in the case of a judicial externship program, judicial privileges. There was much discussion about whether a student could divulge client confidences to a faculty member without jeopardizing the attorney/client privilege, and it did not appear that any consensus was reached on this point. Roy Stuckey pointed out that judges might be restricted from allowing disclosure of information about pending cases under judicial ethics. The confidentiality issues led into a discussion of conflicts such as those that arise when student interns are handling two different sides of the same case. All agreed that a supervising faculty member should not give advice to both sides. Rick Wilson mentioned that the CUNY-Queens program was specifically divided up to avoid such conflicts. This whole issue led back into more discussion about the role of the law school faculty viz-a-viz the supervising attorneys. There was additional conversation about setting goals for externship programs, classrrom components, monitoring techniques, etc. which basically led to the unanimous sentiment that flexible criteria must be developed to allow for the many variations of externship programs.

After everyone was settled back in the meeting room after lunch, Roy Stuckey led a discussion of the draft criteria prepared by Rudy Hasl (see above). Roy stated that Standards 1, 2, and 9 were basically nondebatable. Standards 3 and 4, he said, were probably nondebatable. Roy said that with regard to Standard 3, concerning the educationa goals for Standard 306 programs, it was his impression that individualized goals were acceptable.

There was much discussion of whether Standard 6, requiring the submission of written student work to supervising faculty members, meant that <u>all</u> student work would have to be submitted. Many people believed that Standard 7, requiring the supervising faculty member to review the student's work product, was duplicative of Standard 6. Roy posed the question of whether the review of student work could be delegated to the

supervising attorney altogether. The consensus of the group was that faculty supervisors should review representative work of their students but not necessarily all written products.

The conversation then turned to proposed Standard 5, which as written seems to require each Standard 306 program to be taught by someone whose specializes in the teaching of professional skills. Roy said he did not think that was the intent of Standard 5 and it was agreed by all that the wording should be changed.

With regard to proposed Standard 8 requiring a classroom component focusing on the objectives of the clinical experience "and an opportunity to reflect upon the experience of the students in the program," the group seemed to agree that rewriting was advisable. Instead of requiring an opportunity for reflection, it was suggested that the Standard should simply require methods of instruction appropriate to ensure the educational goals of the program.

Many concrete results flowed from the meeting. First, a survey on externships is being prepared. Second, at the AALS Annual Meeting a presentation on externships will be given. Third, a recommendation is being made to the Section to create an ad hoc committee on externships.

UCLA-WARWICK INT'L CLINICAL CONFERENCE

The full program has been announced for the International Clinical Conference on clinical legal scholarship to be held at the UCLA Conference Center in Lake Arrowhead, California, October 23rd to 26th. Additional places are still available at Lake Arrowhead as well as at the optional post-conference session at UCLA on October 27th and 28th. For further information contact Susan Cordell Gillig, Assistant Dean for Clinical Programs, UCLA School of Law, Los Angeles, CA 20024. Telephone: (213) 825-7376.

Tentative Conference Schedule

THURSDAY, October 23

Afternoon	Arrive at Lake Arrowhead Register and receive papers
6:30	Dinner
8:00	Welcome and Introductory Program: "Directions in Clinical Scholarship: An Overview"
	Open no-host bar

FRIDAY, October 24

8:30	Breakfast

9:15-10:15 Plenary Session
"Power and Control in Client-Centered Counseling"
Panelists: Stephen Ellmann, Columbia University
Donald Gifford, University of Florida
Paul Tremblay, Boston College
Moderators: David Binder, UCLA
John Morris, University of Utah

10:15-10:45 Refreshment Break

10:45-11:45 Simultaneous Sessions: Choose one

Follow-up small group discussions led by panelists and moderators of plenary session

or

Panel discussion:
"An Empirical Study of the Lawyer-Client Relationship"
Panelists: John Flood, American Bar Foundation
Avrom Sherr, University of Warwick, U.K.
Moderator: Paul Bergman, UCLA

12 noon Lunch

1:15-2:15 Plenary Session
"How Law Students Learn: The Clinical/Traditional Dichotomy"
Panelists: Patrick Dalton, Birmingham Polytechnic, U.K.
Majorie Murphy, University of Cincinnati
Mark Spiegel, Boston College
Paul Spiegelman, California Western School of Law
Moderators: Jerry Lopez, Stanford University
Gary Palm, University of Chicago

2:15-3:15 Simultaneous Sessions: Choose one

Follow-up small group discussions led by panelists and moderators of plenary session

or

Panel discussion:
"Training for Competency in Getting and Giving Supervision"
Panelists: Michael Meltzner, Northeastern University
James Rowan, Northeastern University
Moderator: Elliott Milstein, American University

3:15-5:30 At leisure (available activities include softball, volleyball, boating, tennis, hiking)

5:30-6:30 Cocktail party hosted by UCLA and Warwick

6:30 Dinner

8:00 Demonstration of an discussion about the uses of interactive videodisc technology in clinical teaching
"Emerging Technology and Clinical Education"
Participants: Frank Bress, New York University
Martin Dockray, King's College, London
Stephen Simon, University of Minnesota

Open no-host bar

SATURDAY, October 25

8:30 Breakfast

9:15-10:15 Plenary Sessions:
"Tensions Within the Adversary System"
Panelists: Gary Goodpaster, University of California, Davis
Johnathan Hyman, Rutgers, Newark
Moderator: To be arranged

10:15-11:30 "Re-thinking the Teaching of Trial Advocacy"
Panelists: Steven Lubet, Northwestern University
Albert Moore, UCLA
Moderators: Kenney Hegland, University of Arizona
Graham Strong, University of Virginia, (UCLA 1986-87)

11:30-12:15 Follow-up small group discussions led by panelists and moderators of plenary sesssions

12:15 Lunch

1:15-2:15 Plenary Session:
"Training for and Measuring Laywer Competence"
Panelists: Lawrence Grosberg, New York Law School
Alan Paterson, University of Strathclyde, U.K., (U. of New Mexico, Fall 1986)
Moderators: Bea Moulton, Hastings College of Law
Avrom Sherr, University of Warwick, U.K.

2:15-2:30 Refreshment Break

2:30-3:15 Simultaneous Sessions: Choose one

Follow-up small group discussions led by panelists and moderators of plenary session

or

Panel discussion
"Evaluation of Clinical Learning"
Panelists: Mary-Lynne Fisher, Loyola Law School, Los Angeles
Neil Gold, University of Windsor, Ontario,

Canada
Arnold Siegel, Loyola Law School, Los Angeles
Moderators: James Klein, University of Toledo

3:15-5:30 At leisure

5:30-6:30 No-host cocktail party

6:30 Dinner

8:00 Group Discussion
"International Perspectives on Clinical Education"

Discussion led by clinicians from Australia, Canada, New Zealand, South Africa, United Kingdom and the United States

Open no-host bar

SUNDAY, October 26

8:30 Breakfast

9:15-10:15 Plenary Session
"The Clinic as a Social Science Lab"
Panelists: John Flood, American Bar Foundation
Steven Hartwell, University of San Diego
Philip Tegeler, University of Connecticut
Moderators: Carrie Menkel-Meadow, UCLA
Fred Zemans, Osgoode Hall Law School, Ontario, Canada

10:15-10:45 Refreshment Break

10:45-11:45 Small group discussions on discussions on developing clinical legal scholarship led by conference panelists

12 noon Lunch, then depart Lake Arrowhead

BOULDER CONFERENCE A GREAT SUCCESS

The 1986 AALS National Clinical Teachers Conference was the largest ever with 123 registrants. The program, described in previous Newsletters, was interesting and provocative. One of the more intriguing presentations was by Anthony Amsterdam, NYU, who gave the keynote address. The text of his talk is contained in the essay section of this issue.

PLANNING COMMITTEE ANNOUNCED

Graham Strong, Virginia (visiting at UCLA), Tony Amsterdam, NYU, Ann Shalleck, American, and Gary Palm, Chicago have been appointed to the Planning Committee for the AALS Workshop on Clinical Legal Education to be

held in the spring of 1987. The exact dates and location of the workshop will be announced later.

LSC ANNOUNCES GRANT AWARDS

The Legal Services Corporation has announced grants under the Law School Civil Clinical Project for academic year 1986-87 totaling $618,532. The fifteen recipient schools are:

Brooklyn	$50,000
Capital	13,250
Cardozo	50,000
Chicago	50,000
Cooley	32,385
Gonzaga	50,000
Lewis and Clark	25,300
McGeorge	50,000
North Dakota	29,880
Notre Dame	49,172
SMU	50,000
Stanford	50,000
SUNY-Buffalo	48,945
Utah	45,400
Valparaiso	24,200

The LSC Board of Directors at its May 22 meeting approved the transfer of the grant funds from the program development line into the Project budget. This transfer implemented the Board's September decision to upgrade the Project to the status of an independent activity in recognition of the Board's evaluation of the successfulness of the Project.

CLINICAL LEGAL EDUCATION SYMPOSIUM PLANS NEARLY FINALIZED

By

Ellen Scully, Catholic

We are pleased to report on more detailed plans for our special symposium on clinical legal education to be held at Catholic University of America, Washington D.C. on October 17 and 18, 1986.

A distinguished group of clinicians has agreed to present papers, lead workshops, and participate in panel discussions during the symposium. The symposium will provide an opportunity for clinicians to reflect on the history of clinical legal education and discuss its future. We anticipate that portions of the panel discussions, as well as several of the papers submitted, will be published in the Catholic University Law Review.

All faculty and staff members associated with law school clinical programs are warmly invited to attend. We expect that participants in the symposium will be primarily drawn from readers of this Newsletter. You should receive a copy of the final agenda and list of presentations in late September.

The opening day panel discussion on Friday afternoon, October 17th, will draw together people who have been involved in the field of clinical legal education for a relatively long time. We intend to draw from them the wisdom that is naturally generated by their years of teaching. These panelists will focus their remarks on the Changes, Trends, and Forecasts for Clinical Legal Education. Panelists will reflect on the changes that have occurred during the past two decades of clinical legal education, including perceived changes in clinical faculty and students' expectations, sophistication, reactions, attitude toward clinets, and personal goals. Also, panelists will discuss the existence and nature of a perceived crisis in clinical legal education, looking at efforts to transmit to new students and other faculty the worthwhileness of clinical programs, the impact of emerging technological teaching tools in areas of simulation, and other related topics. Prof. Leah Wortheim, Clinical Programs Director at Catholic University Law School, will be the panel moderator.

The opening day panel has been designed to permit vigorous exchanges among the panelists while also preserving a substantial amount of time for responsive interaction with the audience.

On Saturday, October 18th, there will be morning and afternoon presentations and workshops in some of the following areas: Teaching How Layers Present Choices to Their Clients -- the role of clinical supervisers; Evaluating Negotiation Behavior and Results -- can we identify what we say we know; Issues and Methods in the Transfer of Cases From Clinical Student to Student; Ways and Means of Combatting Declining Clinical Enrollments; Burnout of Clinical Teachers -- can anything be done and where do we go when we quit; Interactive Videodisk Learning Programs in the Clinical Legal Setting; Issues Presented by the Advent of Technological Tools and Computers in Simulation Instruction; and Evaluation of Students' Performance in the Educational Clinic.

A gala reception is scheduled for Friday evening at the U.S. Capitol, at which symposium participants will be joined by local law school and clinical alumni. On Saturday evening, a dinner reception at the University will close the symposium proceedings.

The occasion for the symposium is the celebration of the fifteenth anniversary of the legal clinic at Catholic University of America, the Columbus Community Legal Services. The clinic is located in a neighborhood setting and operates as a small but diversified general practice clinic. During the day on Saturday, the legal clinic will be holding an open house.

During the same weekend, a reunion of all graduates of Catholic's legal clinic will be held. The alumni planning committee expects that well over one hundred alumni will return to Washington, D.C. for the reunion, mixing with old friends, faculty members, and former clients.

SHORT STUFF

Bob Burns, Northwestern, was quoted in an article in the Wall Street Journal about Judge Richard Posner and the Law and Economics Movement. The article, appearing on page 1 of the August 4 issue, contained, among other things, Bob's criticisms of Posner and the underlying premises of the Movement.

All of Georgetown's clinical offices have a new address:

25 E Street, N.W.
Washington, D.C. 20001

The new building (actually not new - Georgetown is still working on funding for a truly new building) is closer to the main law school building although further from familiar Chinatown lunch haunts. All of the clinicians also have new phone numbers. Although a complete phone list hasn't yet been produced, here is a roster of some of the usual suspects and their locations:

CALS: 6th Floor, phone (202) 662-9565
Phil Schrag: 662-9099
Juvenile Justice: 2nd floor; phone: 662-9590
Criminal Justice: 2nd floor; phone: 662-9575
Bill Greenhalgh: 662-9080
Harrison Institute: 5th floor; phone: 662-9600
Sex Discrimination: 4th floor; phone: 662-9640

Jim Doyle, Georgetown, spoke on the legal aspects of eyewitness testimony at Northwestern University's 29th Annual Short Course for Defense Lawyers in Criminal Cases, August 4-7, 1986.

John Kramer, Georgetown, has become Dean of Tulane.

Howard Rubin, DePaul, was given an award by the South Chicago Legal Clinic on April 4, for his outstanding efforts to make the legal system accessible to the poor.

Chip Lowe, Nebraska, is taking a leave of absence to pursue an LL.M. degree at the University of Virginia.

Bob Smith, Boston College, is the new Associate Dean there.

Wally Mylanic has been appointed Coordinator of Clinical Programs at Georgetown.

Gary Lowenthal, Arizona, and Larry Weeks, Arizona State, were on the faculty of a seminar given on June 13 entitled Cost Effective Dispute Resolution Techniques presented at the Arizona State Bar Annual Meeting.

Frank Block, Vanderbilt, was awarded a Fulbright Lectureship for 1986-87 to work with clinical law teachers in India. His primary affiliation will be with the University of New Delhi where he will assist in various clinical programs underway at the law school. He will also travel to

other schools to talk with interested faculty about clinical legal education including a visit to the University of Cochin in the State of Kerala where he will assist in the development of a new required clinical course in that school's LL.M. program.

Andy Shookhoof, Vanderbilt, will be Acting Director of Clinical Education during the coming year.

Karen Tokarz, was faculty adviser to the Washington-St. Louis team winning the ABA National Client Counseling Championship plus the first International Client Counseling Championship.

JOBS

NEW YORK UNIVERSITY

Faculty Positions

The New York University School of Law is seeking to fill two clinical tenure track positions, both beginning in the late summer or early fall of 1987. Interested persons should send a resume with references, a writing sample, and a law school transcript by November 1, 1986, to Professor Burt Neuborne, New York University Law School, 40 Washington Square South, Room 424, New York, New York 10012.

Criminal Law Clinic

One position involves primary responsibilities in the Criminal Law Clinic. The principal form of teaching in this position is direct supervision of student fieldwork in the representation of indigent criminal defendants in the federal courts, and participation in seminars and simulation programs designed to teach lawyering skills in the context of criminal trial advocacy as well as principles of criminal procedure and evidence.

Applicants having substantial experience in criminal litigation, substantial trial experience, experience in the representation of individual clients, and some experience in federal practice are preferred. Applicants should be admitted to practice in the Eastern and Southern Districts of New York or capable of securing such admission by the summer of 1987.

Urban Law Clinic

The second position involves primary responsibilities in the Urban Law Clinic. The principal form of teaching in this position is direct supervision of students in all aspects of client representation in civil matters before administrative agencies and before the state and federal courts of New York, in such areas as housing, immigration, Medicaid, social security, health, welfare, education, rights of minors, and employment. The position also involvest teaching in seminar and simulation programs focused upon such lawyering skills as interviewing, counseling, negotiation, drafting, and litigation.

Applicants having substantial trial-level experience in the subjects and skills just mentioned are preferred. Applicants should be admitted to practice in the courts of New York and in the Eastern and Southern Districts of New York or capable of securing such admission by the summer of 1987.

ESSAYS

This issue's essays are a mixed bag. First, Steve Emens, Alabama, has written about clinical teachers and CLE, an area of increasing interest. Second, Tony Amsterdam's, NYU, provocative keynote address at the 1986 AALS National Clinical Teachers Conference has been reproduced in full.

CONTINUING LEGAL EDUCATION

"AN OPPORTUNITY FOR CLINICAL EDUCATORS"

By

Steve Emens, Alabama

As the pace of society quickens, so does that of the law. The rising expectations, education, and sophistication of the public require that lawyers be even better prepared than formerly to handle client problems properly. Lawyers must continually update their knowledge and enhance their skills if they are to provide quality legal service at reasonable cost to as many clients as possible.

To meet this need for postgraduate education, law schools and bar associations are developing a broad range of continuing legal education programs. These programs are designed to offer lawyers a lifelong continuing education in the practical, procedural and substantive aspects of the law and thereby to improve the overall professional competence of the bar.

Some states have gone beyond simply providing continuing legal education programs and now require a minimum amount of post graduate training to remain licensed to practice law. The following states have some form of mandatory continuing legal education: Alabama, Colorado, Georgia, Idaho, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Montana, Nevada, North Dakota, South Carolina, Texas, Vermont, Virginia, Washington, Wisconsin, and Wyoming. Further, the states of Arkansas, Florida, Indiana, and Oklahoma appear to close to the adoption of mandatory continuing legal education.

The growth and development of clinical and continuing legal education have paralleled each other as law schools and the legal profession have come to recognize the need for the integration of theory and practice in legal education. Clinical teachers are involved in establishing professional competence in law students and there now exists, through continuing legal education programs, an expanding opportunity for them to be involved in helping the practicing lawyer remain competent.

Continuing legal education directors look for teachers with skill in teaching in an informative, challenging and interesting way. The success of the entire continuing legal education concept depends on the competence of its lecturers. As educators both the continuing legal education director and clinical teacher know that the "learning process" does not happen automatically. It requires careful preparation and rehearsal.

One of the best ways to get started in continuing legal education is to volunteer to be on a planning committee in a subject area of interest. Active participation in the planning process will frequently result in an invitation to serve as a faculty member for the program.

Clinical teachers are a natural for continuing legal education activities such as trial advocacy, interviewing and counseling programs, negotiation workshops and substantive areas such as evidence, environmental law, criminal law, administrative law, family law, and others. The clinician's ability as an educator to teach methods for analyzing and resolving current legal problems is of great potential value to continuing legal education students.

Most law schools and bar associations operate their continuing legal education organizations on a non-profit basis. Generally they pay only travel and accommodation expenses for their program faculty. However, many of these organizations have an exception to this policy for full-time law school teachers. Under this exception an honorarium plus normal expenses is allowed. The amount of the honorarium is negotiable and may range from $100 dollars for a short talk to several thousand dollars for a full day presentation. Obviously, the best known and most sought after speaker can demand the highest honorarium.

Unlike traditional law school courses, the "students" in a continuing legal education course determine the tenure or grade of the faculty. If speakers are dull or uninformed or too theoretical the students will give them a poor rating and thus a quick end to the speaker's career as a continuing legal education lecturer.

In addition to developing seminar programs most continuing legal education organizations are legal publishers. They publish practical, "how to" oriented material and not scholarly treatises. The type of material clinicians develop for courses in family law, criminal procedure, social security, and trial skills, to name a few, may often be developed into ideal material for continuing legal education publications.

Although oriented toward practical and not scholarly works, continuing legal education organizations should not be underestimated as thoughtful and professional publishers with which to work. With million dollar budgets and experienced in-house editors continuing legal education organizations like Practicing Law Institute, Illinois Institute for Continuing Legal Education, California Continuing Education of the Bar, and others are rivals to any traditional legal publisher in their professional manner and quality of product.

Continuing legal education activities are an opportunity for clinicians to gain visibility within their state bar association, build their tenure and promotion file, develop material for publication or class use, and in some instances earn substantial income. For these reasons clinicians should consider becoming actively involved in continuing legal education programs and publications.

KEYNOTE SPEECH
5/17/86
AALS National
Clinical Teacher's Conference
Boulder, Colorado
by
Anthony G. Amsterdam, NYU

There are two traditional roles of a keynote speaker: to inspire and excite enthusiasm, or to try to place the conference topic in perspective -- usually his or her own perspective, which is promptly and properly disregarded as soon as the real, serious work of the conference begins. For lack of ability to enthuse or inspire, and because my perspectives are peculiarly forgettable, I have chosen the latter role.

The perspective I want to suggest is that supervision, while a good thing, can be too much of a good thing. Teaching and learning through the intensive interaction of clinical teacher and student is an indispensable part of the clinical method, but it is not the only part, and it can often be too big a part. There is a real danger that, as we concentrate on it, improve our techniques of supervision, make it more effective, and find more satisfaction in it, we will come to make it much too big a part indeed. There is a danger that we will forget its inherent high costs and deficiencies, and focus solely on finding ways to do it better, instead of trying also to find ways to do without it.

My thesis is that we need to move in both directions. We need to improve our techniques of supervision, but we also need to decrease the extent to which we rely on supervision as a mode of teaching. We need to develop alternatives to supervision wherever alternatives are feasible. The focus of this conference is improving supervision. Let us concentrate on that throughout the coming days. But as we do, I hope that we can also constantly ask ourselves and one another: Do we really need to do all of this supervision? Are there places where, instead of elaborating supervision, we should be eliminating it or cutting it back? Are we using supervision to teach things that could be better taught, or taught at lower cost, through other methods?

There are several reasons why I think it is imperative for us to ask these questions. Let me state just two of them.

First, supervision -- that is, the intensive interaction of clinical faculty members with individual students or with very small groups of students -- is enormously expensive. It is expensive of faculty time,

which is to say that it is expensive in money and also expensive because it impedes us from giving our time to other things which are important to do. It is expensive of student time, another scarce resource. It is expensive of our intellectual and emotional energies. Let us consider these expenses with a few hard, ugly facts in mind:

Fact One is that, in the short- and middle-range future, we are not going to see much if any increase in the numbers of dollars that our law schools are willing to commit to clinical legal education, and we may even suffer some cutbacks. We are facing the prospect of declining enrollment. Law school applications declined almost 20% from 1982 to 1985. Actual enrollment has begun to decline. And the decline is likely to continue, what with a shrinking job market, an expanding consciousness of the shrinking job market, increasing tuition and incidental costs, decreasing financial aid, and a smaller population of law-school-age people coming along in the late 80's. This means that law school revenues cannot conceivably increase to keep pace with escalating costs. Competition for every dollar in the budgets of most law schools is going to get fiercer by an order of magnitude; and relatively cost-intensive items like clinical programs, with constituencies that have relatively little political clout, are most at risk.

Fact Two is that the 405(e) requirement is going to exert pressure on many law schools to demand "scholarship" of clinicians. To the extent that the job security of clinicians approximates that of academic faculty--whether the particular form of the arrangement be the admission of clinicians to the regular tenure track, the creation of a separate clinical tenure track, or a long-term, renewable contract model -- the academic faculty will regard itself as justified in demanding that clinicians meet criteria which approximate the traditional criterion for winning academic job security: to wit, scholarly productivity.

Fact Three is that most of us are going to find less satisfaction in the future in lives committed exclusively to the classic model of the fieldwork clinic with its center in the classic supervisorial relationship. This is so for several reasons.

First, job security means that, if we want to, most of us are going to be career teachers. Clinical teachers as a group will get older; and the whole history of clinical teaching is eloquent that, while the burnout which comes with advancing age can be alleviated, it cannot be wholly avoided. A larger and larger percentage of clinicians is going to be looking for alternative, less demanding -- or at least periodically rejuvenating -- teaching formats.

Second, the fieldwork focus is simply going to be less fun, particularly for those of us who are litigation-oriented and reform-minded. Law reform through litigation is distinctly not the wave of a future in which Ronald Reagan will have appointed 55% of the sitting federal judiciary before the end of his second term. In addition, the Yuppie generation of students is upon us; the public-interest job market is collapsing; students are graduating from law school with increasingly heavy loads of educational

loan debts to repay, which make it impossible for many of them to take public-interest jobs even if they wanted to. For all of these reasons, it is getting very tough today, and will soon be impossible, to replicate the ethos of the clinics that so many of us know and love: those cadres of committed commandos out to do or die for social reform. In fact, it is becoming increasingly difficult for many of us to find kindred spirits among our students, people who share our vision of humanity, society, and the role of law and lawyers in it. As we talk and think about supervision in the coming days, I invite you to ask yourselves constantly to what extent the supervisory models that we are examining have been produced and made possible by the adventitious historical phenomenon that for almost the whole duration of modern clinical legal education, most clinical teachers have been teaching students who came into their clinics with a set of values and concerns that were very close to the clinical teacher's own. Those days are passing rapidly; and supervisorial techniques that were emotionally satisfying and operationally effective when practiced with a student constituency of soul brothers and sisters may be neither satisfying nor effective in the near future.

My second point about supervision is that it has a major pedagogical deficiency. Our analysis of subjects in the supervisorial conference setting is relatively immune against critical scrutiny. Since it is not preserved in a form that allows it to be reexamined by oneself, tested out in other settings with other students, systematically discussed with one's colleagues, and reviewed by other clinicians, this analysis is unlikely to benefit from the corrections and refinements that can come only from subjection to testing and criticism. Our practice of reinventing the wheel in every supervisorial interaction with each student we supervise is not only a terribly costly way of making wheels but a powerful impediment to ever making the wheels any better. Whenever it is feasible to shift the study of a subject out of the supervisorial setting and into a format that requires us to replicate our analyses of the subject and to embody them in permanent materials susceptible to reworking by ourselves and examination by others, we have the opportunity to replace reinvention of the wheel with invention of a science of wheelmaking.

For all of these reasons, we should be striving hard to find ways to reduce the percentage of our teaching that depends on clinical supervision of a high-intensity sort. We have got to maintain a lot of this, to be sure, but we have also got to cut back on it and to replace it, wherever possible, with teaching methods that will not have the costs and the deficiencies of clinical supervision -- particularly, the costs in faculty time consumption. I would go so far as to say that the single most crying need of clinical legal education in the immediate future is to find ways to remain true to our mission while freeing up a good deal of faculty time -- time that we desperately need for several purposes:

* for teaching larger numbers of students with the same numbers of faculty, because we are unlikely to get more faculty;

* for program planning, since if we do not evolve, we will surely begin to rot; and because we simply must get out of the bind of

continuing to use unnecessarily time-consuming methods of teaching as a result of our inability to make the time to develop less time-consuming methods;

* for research and writing, since these will be increasingly demanded of us for tenure, or its equivalent; to fulfil our activist aspirations; to promote understanding of what we are doing and why it is worth carrying forward; and, finally,

* to make it possible for ourselves and our successors to survive as career clinicians without burnout.

With these needs in mind, let us consider how we might cut back on supervision while preserving the virtues of the clinical teaching method. The first thing we have to do is to disabuse ourselves of the notion that supervision <u>is</u> the clinical method. It is not. It is only a part of the clinical method. There are other parts, and there is a vast potential for developing other parts which are currently underdeveloped. This is true whether one looks at supervision in the context of a particular clinical exercise, in the context of an entire clinical course, or in the still broader context of the law school's overall clinical program.

Let me start by looking at supervision in the context of a particular clinical exercise. Supervision is not by any means the whole of the educational experience provided by any exercise. This is obvious, but we often tend to exaggerate the importance of supervision because it is usually the part of the exercise in which we are most active, certainly the part over which we have the most control, therefore the part that has been the principal focus of our attention as we have struggled to define our own identity as clinical teachers, and therefore the part we have most articulately conceptualized. In fact, much learning and therefore much teaching in any clinical exercise are not the direct product of supervision.

What are the other parts of a clinical exercise? There are:

(1) The student's initial assimilation of the problem and the process of getting started in finding a conceptual framework in which to view it.

(2) The student's initial planning; and, if the students are working in teams, the process of articulation and response between students.

(3) The student's performance, and the experience of it.

(4) The student's own perception of and reaction to his or her performance.

(5) The student's self-critiquing and formal or informal peer critiquing.

The goals of supervision, then, are narrower than the goals of the

exercise as a whole. They need careful delineation, so as not to ascribe to supervision the function of achieving goals that can be better achieved by other parts of the exercise and vice verse. The goals of supervision, as I see them, are six:

(1) First, to control student performance. This has two aspects.

(a) To keep student performance within bounds necessary for educational purposes, that is, at least to keep student mistakes within the range of educationally productive mistakes, and sometimes also to steer the student's performance in directions that will facilitate the examination of issues which are on our teaching agenda.

(b) Also, we often need to keep the student's performance within bounds necessary for nonpedagogical reasons: for example, to assure effective client service; to avoid malpractice liability, bad will, etc.

(2) The second function of supervision is to provide the potential for intervention, although we may not actually intervene. This is a means of promoting the student's sense of security, and assuring the system that it is safe from the student's most dangerous mistakes.

(3) The third function of supervision is to facilitate the student's perception and analysis of issues: legal issues, factual issues, lawyering-process issues, ethical issues, issues in interpersonal dynamics and communications, etc. We do this:

(a) by providing a second head, by creating dialogue;

(b) by compelling the student to articulate his or her thinking process, assumptions, choices, etc.;

(c) by questioning premises, by asking those "have you thought about x" questions that add factors for consideration, and

(d) by raising additional issues, alternative perspectives on them, and alternative approaches to resolving them, both to improve the student's handling of the task or case at hand, and to enable the student to deepen his or her understanding of the analytic process generally.

(4) The fourth function of supervision is to model the processes on which the supervisory interaction itself focuses, that is:

(a) Planning, or

(b) Decision making and problem-solving, or

(c) Critiquing, as a means of learning how to learn from

experience.

(d) The teacher/student interaction also models possible forms of interaction among co-professionals, and,

(e) More generally, possible forms of interpersonal dynamics, which may be more or less authoritarian or egalitarian, competitive or cooperative, manipulative or conjoint.

(5) The fifth function of supervision is to provide a safe forum for the expression of feelings and their aftermath, for example to let the student vent; or to let the student use the faculty supervisor as a whipping post, in order to release aggressions that cannot safely be discharged at other actors in the play; or to let the student come apart at the seams emotionally, and begin the process of reconstruction.

(6) Finally, supervision provides a forum for the sharing of reactions to experience by two professionals, in order to deepen their insights into the experience and into themselves.

I doubt that this will be, for everyone here, an acceptable list of the functions of supervision. We all have our own conceptions of what supervision can and can't, should and shouldn't do. It is useful that we share those ideas, and learn from one another, but it is neither likely nor important that a consensus emerge.

What is important to each of us, and to the healthy growth of clinical legal education, is that we each refine our lists in the way one writes a budget when money is scarce: with a view to pruning out of it everything that is not really necessary. Items whose only justification for inclusion is that they can be done well through the technique of supervision should be suspect, unless they meet two criteria: first, that they can be uniquely well done through the technique of supervision; and, second, that they are exceedingly important things to do in view of the overall objectives of the exercise and the clinical course.

The reason why we should relentlessly exclude from our goals in supervision anything whose only justification for inclusion is that it can be done well in the format of clinical supervision is that almost everything worth doing in law school can be done fairly well in the format of clinical supervision. I see a tendency in myself, in my colleagues, and in the direction of clinical legal education generally, to imperialize, to expand universally the scope of what we try to teach, so that we often end up behaving as though we thought that our clinic, and the student's interaction with us, was the whole of his or her legal education. Just as law schools are expanding to teach economics, social science, philosophy, history, politics, and psychology -- so that they become mini-universities -- so clinical courses are expanding into mini-law schools, and the supervisorial interaction is expanding into mini-clinics. These expansions tack, so that it is all too easy to come to view the goals of your supervisory relationship with a student as

encompassing the whole of his or her professional, intellectual, moral, and emotional education between grade school and appointment to the federal bench. Such expansion is beguiling. The relationship which we enjoy with our students has much in common with the relationship between an apprentice and a master in a professional guild. It is enjoyable--and flattering -- to think of each student as sitting at our feet for five years and learning everything s/he knows from us. But we ain't got five years. We ain't got three years. In any clinical course, we have only a fraction of one year for the course as a whole, and an even smaller fraction of the course for supervisorial interaction. These fractions are scarce resources, and we should not waste them doing things that can be done better elsewhere.

Let me turn now to look for a moment at supervision in the context of a clinical course. There are alternatives to supervision. One is to carefully structure the processes of planning, decisionmaking, and critiquing by devices like written or computered checklists of questions to ask and issues to consider, and then to leave the students to go it alone, singly or in groups. There are also other forms of peer-assisted planning, decisionmaking, and critiquing. For example: Have the students work in teams; have them memorialize their discussions -- the issues they discussed; the considerations they saw as pertinent to each; how they weighed the considerations and why; alternative analytic perspectives; where they agreed and disagreed on all of these matters and why -- and have them write up an agenda for a <u>short</u> supervisorial meeting with you, based on their perception of how your input would be most useful, in the light of what has happened in their own work. It is also often possible to have advanced students supervise less advanced students in planning, decisionmaking, and critiquing.

We need to canvass these and other alternatives to supervision, to plan and maintain a balance of supervised and unsupervised experience, and particularly to wean the students progressively from supervision as they advance.

Finally, let me consider supervision in the context of a clinical program. For a number of reasons, there is great utility in attempting to break down what we now try to do in single heavy-credit clinical courses into smaller blocks, preferably offered in all three years of law school. A proliferation of courses -- some less intensive and some more intensive -- offers a wider range of options to students to choose the level of investment they want to make in clinical training. It also offers us the opportunity to reach more students with at least an introduction to the clinical method. In addition, there is great value in having a progression of courses: introductory, intermediate, and advanced. This maximizes student maturation time. Also, by starting clinical training early in the students' law school career, we can convey the message that the clinical method is a serious and valued component of legal education, and we can give the students the benefit of perspectives derived from the clinical method early, so that they can bring them to bear on their study of the law in non-clinical courses, at a time when most of their non-clinical courses are still ahead of them.

What I am suggesting here, you will be unsurprised to learn, is the sort of thing that we are now building at NYU: a three-year progressive clinical curriculum, with.

* An introductory Lawyering course in the first year, mandatory for the entire 390-student entering class;

* A number of second-level courses carrying three or four credits, mostly simulation courses but at least one with a fieldwork component; and

* Third-level clinics focused primarily on fieldwork, with some advanced simulation components.

Some of these courses involve little or no supervision in the traditional clinical sense. Indeed, the key to such a curriculum -- and the only way to afford it -- is to design courses employing clinical methods that do not require intensive supervision of the sort that will be the principal subject of this conference.

Let me now suggest a few specific items that seem to me to be prime candidates for exclusion from teaching by supervision-centered techniques. These are things that I think are better done elsewhere in a clinical exercise, a clinical course, the clinical program, the law school, or the student's overall legal education including his or her learning from practice after graduation. As I go through them, you might consider how much of your own time in supervisory interaction with students is devoted to these things, and whether that is an efficient use of your time.

First, I suggest that we should not be spending our supervisorial time communicating information to students about how the legal system works in practice, about how judges or prosecutors or clients act in general, about rules of substantive law and procedure, about strategic and tactical approaches in the large, or about the range of considerations that enter into judgement and decisionmaking. Most of this should be conveyed to the students in other ways: in writings, in tapes, in classroom or seminar settings. The supervisorial interaction should be limited to developing and examining the student's individual perceptions, thinking, feeling, and behavior in the process of bringing these funds of information to bear on a particular task or the resolution of a particular problem. Oh, sure, it will sometimes happen that, because of the unpredictability of the direction that a particular supervisorial interaction will take, we will find ourselves required to communicate in the course of it certain general information which we could not previously have foreseen would be needed. But if you are like me, you are kidding yourself to pretend that most of the information that you find yourself conveying in supervisorial interactions is stuff whose need could not have been foreseen, or stuff that could not be far better and more efficiently conveyed in other ways. Time and again, I find myself saying to myself: "This is the second team of students in four hours with whom I've gone through an inventory of the considerations that enter into the decision whether to put a certain level

of factual detail into a pleading or into a supporting affidavit. I've got to remember to discuss this subject in one of the early class sessions next year, or to put more about it into the written materials." Time and again I forget to do that, let alone step back, review my notes of supervisorial sessions, and systematically identify things that keep coming up in them which could be better dealt with in a different teaching format. I should do this, and we all should. In the short run, I know we don't have the time to do it; but in the long run, the fact is that we don't have the time not to do it.

Another prime candidate for excision from the supervisorial interaction is the planning and critiquing of the student's performance in relatively routine matters that do not involve significant issues of choice requiring a weighing of considerations -- matters like the handling of documents or the techniques for impeaching a witness with a prior statement at trial, or the rudiments of framing a question sequence in an investigative interview, or structuring the opening of an initial interview with a client. Where the application of generalizations on these subjects to the particular circumstances of an individual situation does involve significant issues of choice requiring a weighing of considerations, then of course it is grist for the mill of the supervisorial interaction; but otherwise the subjects can be better taught and learned in other ways. I am not advocating their discussion in the abstract, in the manner of an academic class. There are plenty of concrete, clinical techniques for teaching them. For example, when your subject is the framing of a sequence of interview questions, all students in the clinic can be given a common simulation exercise; the performance of one of them (or of a student in a prior year) can be taped; and the tape can be critiqued by the whole class in a seminar format. We are now developing a technology which will allow us to teach much of this stuff by interactive videodisc exercises, such as the one that Frank Bress has just produced dealing with trial objections. We need to be creative in our methods but we also need to be ruthless in weeding out of the supervisorial interaction everything that can be taught in more cost-efficient clinical formats.

My third candidate for elimination from the scope of clinical supervisorial teaching is remedial writing. I find I do a great deal of this. Once again, I want to distinguish between devoting supervisorial time to working with students on writing problems that involve choices of a strategic nature, and the devotion of supervisorial time to working with students for the purpose of improving their basic writing skills or teaching them the rudiments of certain kinds of legal writing -- like writing about facts, or the drafting of executory documents. Studying writing as a means of studying the thinking that needs to go into writing, particularly the process of thinking through what to write and how to write it in order to further the goals which a particular piece of writing is designed to achieve and to minimize the risks that writing entails, is often an appropriate focus for the supervisorial method of teaching. But editing and conferencing our students' writing simply to help them polish their style, refine their syntax, even improve their logic, seems to me to squander our scarce resources. All of our law schools have other means than clinical courses for teaching writing skills: first-year legal-

writing programs, writing seminars and individual directed research, law reviews and journals, moot court, and so forth. If these are not doing their jobs, we clinicians as members of the faculty of an institution responsible for the students' overall legal education may want to help them out. We can do this in a variety of ways, from making suggestions, giving advice, and providing feedback to the persons who design and run the school's writing programs, to assisting them to restructure some of those programs along lines that draw upon clinical models but need not be taught by clinicians. But whether or not we try or succeed in helping other folks to do their job of teaching basic writing skills better, it is a very different business -- and a bad business, I suggest -- for us to undertake to remedy the students' lack of rudimentary writing skills by devoting our own clinical supervisorial time to remedial writing instruction.

In the same vein, my fourth candidate for elimination from the agenda of supervisorial clinical teaching is substantive legal analysis. This, after all, is what our academic colleagues do; they do it well and thoroughly; and they do a great deal of it. It is perfectly appropriate for us to focus on the integration of substantive legal analysis with planning and decisionmaking -- to analyze the law as one of the elements to be considered in solving a problem when our focus is the methodology of problem-solving. But I think that we too often get seduced by the inherent interest of legal issues, and slide into conducting much the same sort of analytic exercises in our supervisory interactions with students that we might conduct if we were teaching an academic seminar. We need to be on guard against this tendency, to maintain an inflexible insistence on sticking to what supervisorial teaching can and should uniquely contribute to our students' legal education. That is not, I suggest, more parsing of the logic of substantive legal rules.

Fifth, I think that we also need to prune out some of the more advanced skills training that we do. It is nice to teach students to plan complex litigation, to cross-examine expert witnesses, and so forth; but it is hardly a rewarding use of our time. Teaching less advanced levels of these skills, so that the students graduate from law school and enter practice with the capacity to begin the process of acquiring experience; helping them to develop insightful, systematic techniques for learning increasingly from that experience; and helping them to develop an understanding of general modes of thinking which can accommodate increasing levels of complexity and refinement when they need these things and are ripe to acquire them, is a far better use of our time. If our students graduate with highly advanced skills in one area, purchased at the cost of time which might have been spent in making them more effective learners although less accomplished practitioners in a wider range of areas, they will be slow to develop expertise beyond the level and the narrow area that we have developed in them. The wiser course is to make them, not the most expert practicing lawyers we can; and then to leave it to their experience in practice to make experts of them in the fullness of time.

Let me end with a word to those of you who believe firmly that intensive,

individualized student supervision is the heart of clinical teaching. I am one of you. I believe that supervision is the heart of clinical teaching. My message tonight is not to cut that heart out. Rather, it is to ease the strain on that heart by considering very carefully the number of bodily functions that we ask it to support, and eliminating those that overtax it needlessly. If we do this, supervision will live a lot longer, and so will we all.

PUBLICATIONS

CLINICAL EDUCATION

Condlin, "Tastes Great, Less Filling": The Law School Clinic and Political Critique, 36 J. Legal Educ. 45 (1986) (Bob Condlin teaches clinic at Maryland)

Schrag, Terry White: A Two-Front Negotiation Exercise, 88 W. Va. L. Rev. 729 (1986) (Phil Schrag teaches clinic at Georgetown)

Stuckey, Apprenticeships and Clinical Education: The Only Real Tests?, 55 The Bar Examiner, No. 3, p. 4 (Aug. 1986)(Roy Stuckey teaches clinic at South Carolina)

Wald, Teaching the Trade: An Appellate Judge's View of Practice Oriented Legal Education, 36 J. Legal Educ. 35 (1986)

ETHICS

Aronson, An Overview of the Law of Professional Responsibility: The Rules of Professional Conduct Annotated and Analyzed, 61 Wash. L. Rev. 823 (1986)

Symposium, Constitutional Dimensions of Legal Ethics, 19 Hastings Const. L. Q. 415 (1986)

Symposium, Legal Ethics, 16 Loy. U. Chi. L. J. 429 (1985)

NEGOTIATION

Menkel-Meadow, For and Against Settlement: Uses and Abuses of the Mandatory Settlement Conferences 33 UCLA L. Rev. 985 (1985) (Carrie Menkel-Meadow teaches clinic at UCLA)

TRIAL PRACTICE

Charfoos & Christensen, Depositions, 22 Trial No. 8, p. 25 (Aug. 1986)

Charfoos & Christensen, Interrogatories, 22 Trial No. 6, p. 56 (June 1986)

Imwinkelried, The Development of Professional Judgment in Law School Litigation Courses: The Concepts of Trial Advocacy and Theme, 39 Vand. L. Rev. 59 (1986)

Shea, Closing Pandora's Box: Litigation Economics, 22 Cal. W. L. Rev. 267 (1986)

GENERAL INTEREST

Church, Examining Local Legal Culture, 1985 A.B.F. Res. J. 449

Friedman, The Law and Society Movement, 38 Stan. L. Rev. 763 (1986)

Horwitz, Are Law Schools Fifty Years Out of Date?, 54 UMKC L. Rev. 385 (1986)

Jaff, Frame-Shifting: An Empowering Methodology for Teaching, 36 J. Legal Educ. 249 (1986)

Monahan & Walker, Social Authority: Obtaining, Evaluating and Establishing Social Science in Law, 134 U. Pa. L. Rev. 477 (1986)

Mudd, Beyond Rationalism: Performance-Referenced Legal Education, 36 J. Legal Educ. 189 (1986)

Re, The Role of the Lawyer in Moder Society, 30 S.D.L. Rev. 501 (1985)

Symposium, Legal Education, 30 N.Y.L. Sch. L. Rev. 475 (1985)

Teich, Research on American Law Teaching: Is There a Case Against the Case System?, 36 J. Legal Educ. 167 (1986)

Tushnet & Jaff, Critical Legal Studies and Criminal Procedure, 60 Calif. U. L. Rev. 361 (1986)

Wangerin, Skills Training in "Legal Analysis": A Systematic Approach, 40 U. Miami L. Rev. 409 (1986)

White, Doctrine in a Vacuum: Relfections on What a Law School Ough (and Ought Not) to Be, 36 J. Legal Educ. 155 (1986)

BY CLINICIANS

Burnham, Inquiry for Standing Purposes When Constitutional Rights Are Violated: Common Law Public Value Adjudication at Work, 13 Hastings Const. L. Q. 57 (1985)(Bill Burnham teaches clinic at Wayne State)

Caplow, Commentary - The Reluctant Witness for the Prosecution: Grand Jury Subpoenas to Defense Counsel, 51 Brooklyn L. Rev. 769 (1985)(Stacy Caplow teaches clinic at Brooklyn)

Capowski, "Public Benefits, Legal Services, and Estate Planning," Chapter 25 in M. Batshaw & Y. Perret, Children With Handicaps: A Medical Primer (2d ed. 1986)(John Capowski teachers clinic at Maryland)

Capowski, Urban Trout Fisher, 9 Flyfishing, No. 1, p. 80 (1986)

Doyel, In Search of a Remedy for the Racially Discriminatory Use of

Peremptory Challenges, 38 Okla. L. Rev. 385 (1985)(Bob Doyel teaches clinic at Mercer)

Goodpaster, Paper -- The Adversary System, Advocacy, and Effective Assistance of Counsel in Criminal Cases, 14 N.Y.U. Rev. L. & Soc. Change 59 (1986)(Gary Goodpaster teaches clinic at Cal.-Davis)

Hagel, Toward a Uniform Statutory Standard for Effective Assistance of Counsel: A Right in Search of Definition After Strickland, 17 Loy. U. Chi. L. J. 203 (1986)(Tom Hagel teaches clinic at Dayton)

Lerman, Thinking Like an ADR Teacher, Dispute Resolution Notes, No. 3, p. 12 (Sp' 1986)(Liza Lerman formerly taught clinicat Georgetown)

Lowe, Public Safety Legislation and the Referendum Power: A Reexamination, 37 Hastings L.J. 591 (1986) (Chip Lowe teaches clinic at Nebraska)

Merton, A Look at Evaluation of Performance in the Law School, 16 Syllabus, No. 2, p. 1 (June 1986)(Vanessa Merton teaches clinic at CUNY-Queens)

Perna, Refereeing the Referees: The Continuing Procedural Muddle in Cases of General Reference Pursuant to Ohio Rule of Civil Procedure 53, 19 Akron L. Rev. 579 (1986) (Rick Perna teaches clinic at Dayton)

Rivera, Queer Law: Sexual Orientation Law in the Mid-Eighties-Part I, 11 U. Dayton L. Rev. 275 (1986)(Rhoda Rivera teaches clinic at Ohio State)