



SECTION ON

CLINICAL LEGAL EDUCATION

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EDITOR: SANDY OGILVY
TEXAS SOUTHERN UNIVERSITY

THURGOOD MARSHALL SCHOOL OF LAW
HOUSTON, TEXAS 77004

BULLETIN FROM BILL

Over a weekend last March 25th, Roy Stuckey and I, as clinicians, attended an unpublicized ABA National Conference on Legal Education for a Changing Profession at the University of Virginia School of Law. I say unpublicized because those invited were a very select group consisting primarily of university presidents and deans. Roy, as chairperson of the Skills Training Committee of the ABA Legal Education Section, was on a panel entitled Changes Within Law Schools, while I was merely returning to my alma mater and revisiting Monticello.

There was significant power at the Conference — i.e., President Robert MacCrate, President-Elect Robert Raven, and President-Elect Nominee Stan Chauvin, all of the ABA. Also in attendance were the big wheels of the Legal Education Section, such as Chairperson Rosalie Wahl, Chair-Elect Phil Anderson, Vice-Chair Norman Redlich, former chairs Robert McKay and Sandy D'Alemberte, and various present and former Section Council members. As you can imagine, I spent considerable time needling them as to when they were ever again going to nominate a clinician to serve on the Council. Who knows that it may have paid off. [Indeed it has — see p. 19 -ed.]

Justice Anthony Kennedy made his inaugural speech at the Conference, emphasizing his personal philosophy of the 3 Rs — Reason, Rhetoric, and Reverence. Having been an adjunct professor at McGeorge School of Law for many years, he spoke with some experience as to how the 3 Rs should be integrated into the curriculum. At the reception the evening before, I found him to possess a great sense of humor, modest, and delightful with whom to chat. I must say he did mention, in connection with Reverence, the word justice several times. We shall see.

Probably the most significant item on the agenda was Tulane Dean John Kramer's submission of his analysis of "The Costs of Legal Education 1977-78/1987-88." I have asked Sandy to include it in my remarks to the membership. I suggest you read his commentary as he refers to the statistics. It makes more sense that way. I trust you will agree that his analysis, like John himself, is startling, especially as the single dollar volume increase in the cost of legal education relates to faculty pay. In any event, to those of us who know John, his performance was the high point of the Conference. He stole the show.

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The Costs of Legal Education

1977-78/1987-88

Dean John R. Kramer
Tulane University
School of Law

I. Tuition

	1977-78		1987-88		% Increase	
	<u>Average</u>	<u>Median</u>	<u>Average</u>	<u>Median</u>	<u>Average</u>	<u>Median</u>
Public (Resident)	883	756	2,396	2,124	171.3	181.0
Public (Non-resident)	2,068	1,870	5,612	5,706	171.4	205.1
Private	3,147	3,030	8,911	8,690	183.2	186.8

NOTE: The Consumer Price Index rose by 85.8 percent from the fall of 1977 to the fall of 1987.

II. Costs

The following data are derived from a study of the ABA questionnaires for 1977-78 and 1987-88 received from 157 law schools. Although there are 174 ABA-accredited law schools in 1987-88, ten did not have such accreditation or did not exist in 1977-78, four submitted questionnaires in 1987-88 that were not available for review for various reasons (Antioch, Northeastern, Duke, and Inter American) and three submitted incomplete, and thus not comparable, data for 1977-78 (Miami, Chicago, and Kansas).

a) Schools Studied (1987-88)

	<u>Public</u>	<u>Private</u>	<u>Overall</u>
No. of Schools	70(74)	87(100)	157(174)
No. of full-time JD students	37,713	52,313	90,046 - 92.3% of reported 97,528 full- time enroll- ment

(The numbers in parentheses represent the total number of ABA-accredited schools regardless of involvement in the study.)

(All figures in 000s)

	<u>Expenditure</u>	<u>1977-78</u>	<u>1987-88</u>	<u>%Increase</u> (Multiplier)
b)	<u>Gross budgeted expenditures</u>			
	Overall	\$344,181	\$991,355	188.0 (2.9)
	Public	\$139,937	\$365,829	161.4 (2.6)
	Private	\$204,244	\$629,526	208.2 (3.1)
c)	<u>Gross tuition</u>			
	Overall	\$227,270	\$709,744	212.3 (3.1)
	Public	\$ 46,849	\$124,121	164.9 (2.6)
	Private	\$180,421	\$585,623	224.6 (3.2)

1987-88 only

d) Budgeted expenditures per full-time equivalent student

Overall	\$9,590
Public	\$9,279
Private	\$9,844

(counting each part-time student as 3/4 of a full-time student)

In comparison: \$11,320 was the expenditure per full-time equivalent student in public universities in 1985-86 and \$18,779 the figure in private universities. Tables 1.9 and 1.11 in Snyder and Galambos, "Higher Education Administrative Costs: Continuing the Study" (U.S. Dept. of Education, Jan. 1988).

The Law School Budgets: A Ten Year Review

(all figures in 000s)

<u>Expenditure</u>	<u>1977-78</u>	<u>1987-88</u>	<u>%Increase (Multiplier)</u>	
A) <u>Gross</u>				
<u>Instructional</u>	\$152,652	\$389,379	155.0	(2.6)
1) Teacher payroll (excluding dean, librarian, non-tenure track faculty, and administrators teaching less than half-time)	\$116,121	\$276,604	138.2	(2.4)
2) All other payroll	\$16,687	\$42,515	154.8	(2.6)
3) Fringe benefits for 1) and 2)	\$19,991	\$69,236	256.3	(3.5)
4) Number of of full-time teachers	3,895	4,492	15.3	(1.2)
5) Number of teaching deans and librarians	N.A.	451		
6) Median salaries for permanent full-time teachers	\$28,000	\$56,400	101.4	(2.0)
7) Average salaries for permanent full-time teachers	\$28,959	\$60,691	109.6	(2.1)
8) Average fringe benefits for permanent full-time teachers	\$ 4,389	\$12,892	193.7	(2.9)

(all figures in 000s)

<u>Expenditures</u>	<u>1977-78</u>	<u>1987-88</u>	<u>% Increase (Multiplier)</u>	
9) Student/ faculty ratio (full-time equivalent JD students only)	27.57 (107,374 students; 3,895 teachers)	23.01 (103,372 students; 4,492 teachers)	-16.5 (decrease)	
B) <u>Administrative</u>				
1) Payroll	\$49,018	\$167,186	241.1	(3.4)
2) Number of faculty secretaries	1,135	1,356	19.5	(.2)
3) Number of administrative personnel	N.A.	1,444	N.A.	
C) <u>Library</u>				
1) Total expenditures	\$57,237	\$165,535	189.2	(2.9)
2) Salaries and wages	[\$26,912]	\$ 81,944	204.5	(3.0)
3) Books, serial subscriptions, microforms, audio-visual materials, binding	\$29,293	\$ 68,527	133.9	(2.3)

(all figures in 000s)

<u>Expenditures</u>	<u>1977-78</u>	<u>1987-88</u>	<u>% Increase (Multiplier)</u>	
D) <u>Financial aid</u> (from law school resources only)				
1) Total Expenditures	\$19,529	\$57,662	195.3	(3.0)
2) Scholarship-re- bate % of all aid	\$11,720 (60.0)	\$33,342 (only \$28,094 is tuition rebate)	184.5 -rebate only 139.7	(2.8)
3) Work-study and other employment % of all aid	\$ 1,622 (8.3)	\$12,157 (21.1)	649.5	(7.5)
4) Loans - % of all aid	\$ 5,433 (27.8)	\$12,163 (21.1)	123.9	(2.2)
E) <u>Clinical education</u> (from law school resources only)	\$ 8,819	\$27,172	208.1	(3.1)
F) <u>Research</u> (from law school resources only)	\$ 5,064	\$21,359	321.8	(4.2)

Budgeted Expenditures

(figures and percentages do not add up because of category confusion in underlying data)

<u>Expenditures</u>	<u>1977-78</u>		<u>1987-88</u>	
	<u>\$</u>	<u>% of Budget Overall</u>	<u>\$</u>	<u>% of Budget Overall</u>
<u>Total</u>	\$344,181		\$991,355	
<u>Instruction</u>	152,652	44.4	389,379	39.3
Full-time teachers	116,121	(33.7)	276,604	(27.9)
Other teachers	16,687	(4.8)	42,515	(4.3)
Fringe benefits	19,991	(5.8)	69,236	(7.0)
<u>Library</u>				
Salaries	26,912	(7.8)	81,944	(8.3)
Books	29,293	(8.5)	68,527	(6.9)
<u>Supporting personnel</u>	49,018	14.2	167,186	16.9
<u>Research (all sources)</u>	14,070	4.1	27,616	2.8
<u>Financial Aid (all sources)</u>	29,326	8.5	86,956	8.8
<u>Potpourri (travel, phone, supplies, student activities)</u>	39,082	11.4	124,134	12.5
<u>Other (unclassified)</u>	11,254	3.3	30,516	3.0
<u>Clinical Education (all sources)</u>	16,472	4.8	31,716	3.2

Increases in Budgeted Expenditure, 1977-78 to 1987-88

	<u>(\$ - in millions)</u>	<u>% of all increases</u> <u>(\$647)</u>	
<u>Instruction</u>	237	36.6	
a) Full-time teacher payroll	160	24.7	
b) Other teacher payroll	26	4.0	
c) Fringe benefits	49	7.6	health insurance
<u>Administrative payroll</u>	118	18.2	
<u>Library</u>	108	16.7	
a) Salaries and wages	55	8.5	
b) Books	39	6.0	
<u>Financial Aid</u>			
Own	38	5.9	
All resources	58	9.0	
<u>Clinical Education</u>			
Own	18	2.8	
All resources	15	2.4	
<u>Research</u>			
Own	16	2.5	
All resources	14	2.2	
<u>Potpourri</u>	85	13.1	
<u>Unclassified Other</u>	19	2.9	

Comments on the Data

The percentage increases on pages 1 and 3 are startling. Why did median and average law school tuition, both public and private, rise at a rate that was more than double the Consumer Price Index (CPI) over the ten years from 1977-1978 to the present academic year? Why, when the CPI rose 85.8%, did we boost the tuition we charge by another 100% or more? The CPI did not quite double. Our charges did not quite treble, although out-of-state residents in public schools had to pay slightly over three times as much.

Why? The question is insistent. Why?

Secretary of Education William Bennett, out on the stump, complains constantly that "between 1975 and 1986, average college costs rose 150% . . . That's 36% faster than inflation." We are lucky that he hasn't targeted law schools, where we have out paced inflation by 100%.

We have to determine the answer or answers if not out of a basic sense of accountability to our 100,000-plus paying customers, then to understand what we are all about, what our educational objectives and priorities are as we prepare our budgets and allocate what we profess to be scarce resources.

It is instructive to compare the answers tentatively suggested by these numbers with the answers we have previously presented to ourselves. In the Council's Long-Range Planning Report (Report) we note that "American legal education has become big business" (Report, p. 8 - although the size of that business with "total budget" exceeding "four billion dollars" excluding living costs of foregone earnings seems exaggerated by a factor of four given gross budgeted expenditures for 157 schools of \$991 million).

We attribute "[m]uch of the increased cost to "the product of a general inflationary rise in the cost of living" (Report, p. 9). 85.8% is one thing, 188% (the overall increase in gross budgeted expenditures) another. Of course, there is always HEPI, the Higher Education Price Index that measures the average changes in the prices of goods and services purchased by colleges and universities through current-fund educational and general expenditures, but HEPI is only available on a 1977-78 to 1984-85 basis. HEPI jumped only 72.5% with the three years up through 1987-88 not calculated. Those three years when available are likely to reflect a 5 to 6% annual increase, making HEPI's rise slightly in excess of 100% over the ten years, still way short of tuition.

The reality of the figures belies some of our most cherished beliefs, while underlining the validity of others. The silence in the midst of the clangor of the numbers is deafening. Where do these figures reflect the vast upgrading of our facilities (Report, p. 8) or our recently acquired costly systems of technology (Report, p. 8) or routine maintenance and repair or that bugaboo of the 1970's, siphoning of law school revenues to fill university reservoirs (Report, p. 12-4.c)? How can that still be occurring if the private schools collect \$586 million and spend \$630? Or do gross figures suggesting more enlightened relations mask individual instances of highway robbery?

First, some of the myths relating to the escalation in the cost of legal education. While [t]he balance of the increase [in cost above the CPI]

"reflects, we believe, a significant improvement in the quality of American legal education" (Report, p. 9), the categories of cost that rose by the largest dollar volume as well as by the greatest percentage make the Council's belief slightly arguable.

The largest single dollar volume increase relates to faculty pay, not to significant spurts in the number of full-time law teachers or reductions in the student-faculty ratio, although those do exist. Even if no new teachers had been added to the faculties of these 157 schools since 1977-78, the faculty payrolls would have gone up \$119 million or 18.4% of the entire \$647 million increase in budgeted expenditures. The increase attributable to new teachers is only \$41 million or 6.3%, below the increase in administrative payroll (\$118 million and 18.3%), potpourri or all other expenses such as supplies, travel and entertainment, telephone, student activities, etc. (\$85 million and 13.1%), fringe benefits for all teachers (\$49 million and 7.6%), and salaries and wages for personnel working in the library (\$55 million and 8.5%).

Are these items quality enrichers? Have higher faculty salaries led to more scholarly productivity, better teaching, more concern for students' intellectual development, less consulting? What have all the new administrative staff members given us? More paper shuffling in admissions to entice students with higher predictor indices from the schools around the block who grow even more restless in the classroom? More and more law firms invading the school premises to recruit, disrupting classroom attendance and undermining the focus on the mind with emphasis on the pocketbook? More and more fund-raising trips and dinners and lunches and receptions for the deans to guarantee that they never have enough time to concentrate on the intellectual life of their schools? More and more marketing brochures, glossy annual reports with tables of donors, catalogues that rival Bloomingdale's and Horchow's, tabloid-style reports to keep alumni abreast of the newest faculty members and latest symposium on the Bicentennial? Is that what it should be all about?

Ironically, if an analysis of the staffing patterns of the top ten schools listed in the Gourman Report that also appears in this study can be said to reflect the other 147 schools, the significant increases in administrative personnel occurred exclusively in development and alumni affairs (from 73.6 staff years to 118.9 or 62%) and placement (42.75 up to 55.25% or 29%). Admissions and recruitment lost staff (52.2 to 46.0) and financial aid moved ahead somewhat (23.1 to 27.45 or 19%).

Where is all this potpourri going? To AT&T to satisfy faculty cravings for transcontinental chats? U.S. Postal Service or Federal Express to distribute 50 copies of a faculty member's freshest article post haste to 50 law review articles editors? To wining and dining the classes of 1938, 1963, 1973? To yellow pads and felt tips? We know where the fringe benefit gains are going. To the doctors and psychiatrists and hospitals. Certainly not to better health care. Hopefully to Fidelity, Vanguard, et al. and not simply to TIAA-CREF. Do these improve legal education?

And what about all these assistants to all these librarians, these shelvers and Xeroxers and general gofers that lurk behind the reference desks? In 1977-78, for every \$10 spend on the library, slightly over \$5 went to buy books. Today, it's only \$4 for books and \$6 for people. Who reads people? Has the information revolution made reading material obsolete?

All of these issues require further exploration if only we can find the data and the researchers to undertake it. Meanwhile, we have to admit a piece of the truth. The increase in the median size of our library collections and the dramatic rise in the per-volume cost of books have nothing significant to do with the changes in our cost structure during the past ten years (But see Report, p. 8). They are trivial factors (6.1%). Student loans are insignificant, almost invisible items on our expenditure sheets (1.1%) (But see Report, p. 8).

Financial aid from our own resources is up slightly over the rise in tuition, but the most noticeable jump there is in dollars available for students to work (up 649.5% and 1.8% of the increase in budgeted expenditures), which we theoretically deplore as a way of dealing with the problem when confronted with suggestions to relax the limitations on outside employment (see Report, pp. 19-20). Rebated scholarship dollars have not quite kept pace with tuition dollars (139.7 versus 186.8%), although the gross \$16 million rise (2.5% of the total) is undeniably helpful to the students who receive it.

We always pride ourselves on our post-CLEPR commitment to clinical legal education, while highlighting our "lingering concern" about the cost of clinics. (Report, p. 11). Clinics are undeniably more expensive to run than Socratic or lecture classrooms because of the person power required. But our commitment to them may be somewhat overstated. We added \$18.4 million to our clinic budgets over the ten-year period (208.1%). That 208.1% increase was, nonetheless, slightly below the increase in all budgeted expenditures over the same time frame (208.2%) and well behind private school tuition collections (224.6%). Is that a commitment or a shrug? Or do we reserve our real preference for the telephone and paper clips, for dental coverage and catastrophic insurance, for filing LSDAS forms and conducting exit interviews? Are our priorities reflected in what we say or what we actually spend? The largest percentage increases from 1977-78 to 1987-88 were not in any of the areas we consistently brag about, but in research dollars (321.8%, but only \$16 million and probably concentrated in summer writers' grants), fringe benefits for teachers (256.3%) -it would be larger if fringe benefits could be broken out of the administrative payroll as well, administrative payroll (241.1%), and potpourri (217.6%).

Finally, a cautious work about resources. While we all appropriately deplore our heavy dependence on tuition dollars and would like, as the Report urges, to develop new resources (Report, p. 28), many of the dogs the Report refers us to simply will not hunt. More funding from public sources may be viable in some states, but not at the Federal level. We were lucky to get appropriation boosts to \$3.8 million for clinical education and \$1.9 for CLEO while most other higher education programs lost funds for fiscal year 1988. Our luck may not hold, and we certainly can't expect more in the near or even middle range future until the deficit subsides.

Fund raising and annual giving and law firm support are obvious if slightly overlapping sources to identify (not to mention the creation of law school endowed funds), but their efficacy in removing the upward pressure on tuition is doubtful indeed. The list of the top ten most well-endowed schools, with nearly \$570 million in endowment pre-the October crash (and excluding Chicago, Cornell and Duke) encompasses eight private schools with tuition above \$11,000 in 1986-87, five of them the largest tuition chargers. Their endowment pay out may enrich their programs, but it does very little to relieve the burden on their students. All the giving (annual and other gifts) totalled in 1986-87 approximately \$57 million or only 8% of all tuition collected. Assuming a six percent rate of return on endowment, the major endowments added only \$34 million or 4.8% to that. Tuition will always remain the name of the game at private schools and will be a steadily increasing component of resources available at public schools.

COMPUTERS IN THE CLINIC

HOW CAN COMPUTERIZED DOCUMENT SYSTEMS HELP IN CLINICAL TEACHING?

By Bob Siebel (Cornell)

At the 1987 AALS annual meeting in Los Angeles, I demonstrated a computer program that I am developing. I am working with a system that was developed by Jim Sprowl while he was a research scholar with the American Bar Foundation, while I was teaching at Chicago-Kent Law School in 1979 and 1980. The system is primarily for automating document production and for the transfer of legal expertise to the machine, and until recently had not been available for use on microcomputers.

I had been musing about ways to apply the system directly to tasks involved in teaching in the clinic. Tony Amsterdam's remarks at the Workshop in Boulder helped me focus on this problem and the program I demonstrated is the first concrete step in using this system directly for teaching goals. This article describes some of the thoughts that I have about the possible goals of using computers in this way.

The software involved consists of two pieces; one is a document processing system called LawProcess, which is now available to law teachers through West Publishing in conjunction with a new book: Maggs and Sprowl, Computer Applications in the Law. It is very easy to learn to use. The other piece is the set of specific documents, called models, that the processor works on to produce the finished document. The program I demonstrated is the set of models that I am developing, but the LawProcess system is designed to be easy enough to use so that law teachers who know little about computers can create

their own sets of models. You don't need to know anything about computers or LawProcess to use the models I have prepared. My models are available to any clinic teacher who would like to try them out, just write to me at the address below. The software works on IBM PCs and compatibles.

Let me summarize some of my goals in developing this computer assisted case reporting, analysis, and document production system:

1. Make more effective use of supervision time with students, and improve quality of supervision, not just efficiency;
2. Guide students' initial thinking and reporting about cases in a logical and consistent way, and stimulate their analysis in the process. Even if they find they cannot fully complete the form while at the computer terminal, they will continue to think about the questions and issues and will be better prepared for the supervisory meeting;
3. Model, through the computer, a method of case analysis and planning for students;
4. Have computer assistance with the production of documents that will actually be useful directly in solving the client's legal problem, whether pleadings, agreements, or other legal work product. This would be a supplement to the basic case report and analysis;
5. Standardize the form and content of the recording of basic information in the client file;
6. Introduce students to a use of computers directly in the accomplishment of lawyers' work; and

7. Stimulate thinking about lawyering process, the how, why, and what of lawyers' activities (actual or ideal).

Most of us currently sit down with each student after the initial client interview to analyze the case and develop a work plan. This means that we find ourselves repeating many of the same questions with each student for each new case. We need to know the basic facts of the case, what took place in the interview, the student's impressions and preliminary ideas about the case, and what the student needs (or thinks s/he needs) from us. We generally do this with little advance information about the case, and little time to prepare or to think about what approach to supervision of the particular case and student may work best. In short, we often shoot from the hip in supervision in just the way that we try to teach students to avoid in their lawyering.

This presents two problems. One is that the quality of our supervision may easily suffer. The other relates to the appropriateness of the use of our limited time with a student in a one to one supervisory situation. The two problems are obviously intertwined. I set out to see if the computer could be used to help solve these problems by developing a computerized case summary and planning report.

We could ask students to give us written reports before we meet with them, but without some structure this might be even less productive. We could give them forms to complete (and thus supply the structure) for relevant information and preliminary analysis, but in order to be generally useful such forms would have to either be very long and include a lot of questions that aren't necessarily relevant to the student's specific

case or they would involve too much selection by the students before they are ready to make those choices. The computerized case summary form will allow teachers to get the report in advance, with the student having been guided by the computer through the basic questions and analysis. The students will have prepared the report without wasting a lot of time wandering down frustrating dead ends.

The system gives the students some choice about the level of detail of report to prepare without overwhelming them with decisions too soon. It offers the possibility of computer assistance in the preparation of first draft documents that are directly applicable to the client's case, as well as general case planning. For example, in a divorce case, the student can just answer some questions that cover the issues that would almost certainly be addressed at the start of the supervision meeting—background facts, procedural posture, legal issues, etc.—or the student can go further with the preparation of a first draft of the complaint. Or the student may not get into the drafting, but may select a deeper level of case analysis and planning, which will be guided by the computer.

The clinic teacher, armed with a copy of the report the day before meeting with the student, has the opportunity to become familiar with the facts, legal issues and needs of the student, so s/he can plan an approach to the specific supervision of the student and the case, and, generally, to utilize the time with the student more effectively. Incidentally, the student, we hope, has thought more about the case prior to meeting with the supervising attorney as a result of the computer report. Even if the answers supplied by the student are

not very good when completing the report, the student has been alerted in the process to areas that need his or her attention.

There are other benefits to be gained from the use of the computer in this context.

The ability to display textual information at any time during the processing of a document is an obvious vehicle for teaching. We can insert explanations of applicable law or procedure or even comment on judgments that need to be made about the case (or that the processor is making automatically based on information supplied by the user). For example, without some knowledge of the specific law, the user may not fully appreciate the legal significance of a question about the length of time the client has resided in the jurisdiction. With an appropriate display, an explanation of the residence requirement for divorce jurisdiction could be available, including a statutory reference for further research. So the computer can be used in the capacity of directly imparting information to the students.

It is possible to dispense information to the student by including it in the final documents that are assembled, rather than having it appear on the screen. In other words, the student may get from the computer some substantive law, case planning hints, research issues, etc. that were pre-programmed to be dispensed depending on the type of case or the extent that the student uses the computer's assistance in the initial session. One example of this is where the student ends the session without doing the extended analysis of the problem. The computer automatically appends to the report a list of topics for the student to consider which mirrors the analysis the student would have been faced with had s/he continued with the program.

Similarly, one could have the computer add to the report some practice hints, statutory references or other textual materials, or suggested issues for the student to consider.

The structured way that the computer guides the user through the preparation of the documents is itself a teaching tool. It sets a mode of thinking or analysis that students will learn from and likely mimic when they are thinking about cases or legal issues without the computer. A flexible, but organized and somewhat disciplined approach can be built into the computer, and student use of it will engrain some systematic approaches. This, of course, can be a potential subject of discussion between student and supervisor. It is a subtle and non-threatening way to raise basic lawyering process issues. Either teacher or student may raise questions about why the computer asked particular questions and why in the order that it did, and the ensuing discussion should be useful for the student (and maybe lead to refinements of the computerized system!). This is true whether the topic is a specific approach to a legal problem that was used with the computer, or the more generalized planning guidance provided by the computer.

Students can also learn from designing or evaluating the document systems themselves. It requires little or no technical computer knowledge to develop a system. The students must fully understand the law and practice applicable to divorce law, for example, in order to design or evaluate a computerized divorce complaint system. Such an exercise also provides insight into how lawyers work and think--reviewing the computerized process forces you to break down the lawyering task into very small

pieces and examine each separately. Dean Peter Martin of Cornell has already successfully experimented with this approach in his seminar on Applications of Computers to the Practice of Law.

On a more mundane level, the use of a computer generated case report system will standardize basic content and form of initial information that goes into every file. It is not a matter that we like to spend much time talking and teaching about, but file management is an element of what students are learning, and in most clinics, with regular turn over of students, the organization and recording of information in client files can be a potentially serious problem. The computerized case reporting system is a relatively painless and automatic way of starting to deal with this problem.

Another benefit of using the case reporting and document preparation systems is that it exposes students to a different way of using computers in law practice. In fact it may well be their first introduction to the use of computers as an aid to the mainstream lawyering process, rather than as a back office number crunching or word processing tool. It should stimulate their thinking about what lawyers do and how they do it, and which things they could do better with a computer.

Most of this discussion has been addressed to the case analysis and report system for automatically producing some documents that can be used directly for the client. There is also the component of the system for automatically producing some documents that can be used directly for the client. There is a whole set of goals related to that function which are beyond the scope of this article. However, automating the production of documents has an effect on what and how students learn about

lawyering in the course of the clinic experience. It is worth noting here then, that a key issue may be whether such a system is in fact counter-productive, since it may encourage blind reliance on electronic forms, or a hint of a fundamental change in how lawyering is carried out that will be brought on by the development of artificial intelligence types of applications of computers. This, in turn, causes us to reflect on what we teach and how we choose our teaching objectives.

If you have received a copy of the system, please call or write me with your ideas, problems, or questions about working with LawProcess, my models, or your own systems. If you would like to try working with my models, write to me for a copy of the disk. Robert F. Seibel, Cornell Legal Aid, Myron Taylor Hall, Ithaca, NY 14853; (607) 255-4196.



Getting Started With
Computers in the Clinic
By Bob Seibel (Cornell)

Many of you may know a little about the work I have done with prototype automatic document assembly programs. It might be natural to assume that because I have worked with this kind of strange technological creature that I have some special interest or background in computers or high tech. Nothing could be further from the truth—when I started working with computers several years ago it was with a good bit of skepticism about how useful they would be; with some suspicion about what effect they might have on lawyer/client relations; and with absolutely no knowledge about how they work. I still shy away from the technical stuff, but I have become convinced that computers can and should be an important part of our daily lives as lawyers and teachers (and for the more venturesome among us, a part of our lives as researchers). I mention this only because I know that a major reason that many of us are resistant to getting involved is because we think that using computers will require a lot of learning time and a lot of technical knowledge that doesn't excite us. There is some basis to these fears, but now they are largely overdone.

I would suggest that people begin with a single basic program and gradually try to learn how to use its features and think about ways that the features might be put to use in your regular routines. Word processing is a natural choice (but by no means the only one) and with most popular word processing programs you can learn the basic things you need to know to start using the program in less than an hour.

Let me use WordPerfect as an example. Even if you are a two

finger typist you can learn to create documents with this program in an hour. Its true that there are commands that you need to learn in order to use WordPerfect, but the program comes with a keyboard template that is always in front of you to remind you of the commands. When you are comfortable with the basics, you can start learning about the special features that can make your life easier. Do you like to prepare an outline of a brief or memo before starting to draft?—pretty easy with the outliner feature of WordPerfect. Or maybe you would like to use the outlining feature to help you get organized in the early stages of litigation planning. Or perhaps you just want to make a "To Do" list that you can update at the beginning or end of each day.

WordPerfect has powerful merge capability—which means that you can create standard forms and separate files with variable information to be inserted into the forms when the two are merged. This feature is often used for mass mailings to all the people on a mailing list. But many law offices have developed pretty sophisticated sets of legal forms that allow them to quickly prepare customized pleadings or other legal documents. Do you see some ways you might want to play with this feature to save time in dealing with students on some routine types of cases? Could it help in some clinic administrative tasks?

There are lots of other features of this program, many of which I have not begun to explore. The point is that your goal is not to master the program so that you can

dazzle your friends (and students) with your knowledge. Your goal is to discover ways that you can put this program to use in helping you with your particular work and work habits. I have found that thinking about how I might use computers to make work less burdensome has often led me to not only think about my work habits, but to actually make changes.

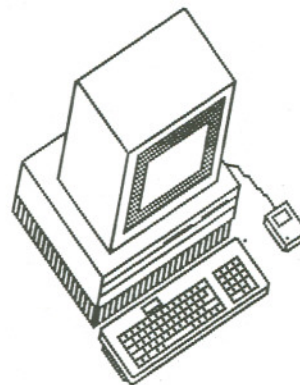
When you are ready to move beyond word processing there are some programs that you might find useful that work with word processing. You could consider ZyIndex for example, a program that will automatically create an index of the words contained in documents that have been created in your office so they can be searched like the decisions and materials in Lexis or Westlaw. You can use it to create your own database of pleadings, memos and briefs which can then be available to your students (this avoids the frustration and embarrassment of those conversations where you find yourself telling a student that the clinic handled a case just like hers a couple of years ago but you can't remember the client's name or file number).

Or you might consider CompareRite, a program that compares two versions of a draft and will automatically show additions and deletions. You might decide to edit student drafts on your computer instead of with a red pencil, and use this program to automatically show the student your proposed changes.

We need to be more aware of the possibilities of using computers as catalysts for prompting our thinking rather than mere work saving devices. When I suggest using a computerized outlining feature for litigation planning I do so not only in the hope that some of you will save some time with it, but even more importantly it might be useful to you and your students in providing another vehicle

for looking at the ways we think about cases, the ways that we formulate strategy and how we approach the planning process. Believe me when I say that creating form documents for use with your computer quickly leads to examining substantive legal issues as well as office practice.

If you don't try to go too fast with computerization you will find that the learning curve is not so bad, the rewards are more immediate than you thought possible, and the darn things can be fun!



OF INTEREST TO CLINICIANS

Roy Stuckey (South Carolina) To Be Nominated to Council of ABA Section on Legal Education and Admissions To The Bar

The NEWSLETTER has learned that Roy Stuckey will be nominated to the Council of the ABA Section on Legal Education. In addition, Dean Norman Redlich (NYU) will be nominated as Chair-Elect and Jose Garcia-Pedrosa, Esq. (Miami) as Vice-Chair.

Clinic Teacher Evaluation Form Sought

Susan Kovac of the University of Tennessee says that they are in the process of redesigning their standard teacher evaluation form. They would like to review forms, from any school, that focus on clinical teaching. Please write to Susan at U. T. Legal Clinic, 1505 W. Cumberland, Knoxville, TN 37996 or call (615) 974-2331.

Clinic Facilities Plans Wanted

Leah Wortham (Catholic) and Susan Kovac (Tennessee) are looking for building plans for skills training and courtroom facilities. Both schools are in the process of building/renovation projects. If you have plans or know of terrific facilities somewhere, call Leah (202)635-5140 or Susan (615)974-2331.

How Are Conference Presenters Selected?

Roy Stuckey (South Carolina) reports that this question was raised during a discussion at the recent clinical teachers conference in Bloomington. Roy says that most presenters are selected by the program's planning committee. Once the committee decides what the program will

include, it begins trying to figure out who would make a good presentation on each topic. Quite often, committee members don't know, so they call other people and ask for suggestions. Out of ignorance, many excellent presenters are overlooked.

Roy suggests that you assist the committees. When you hear of a program in the planning stages, think about specific topics you would want to be included and contact someone on the committee (e.g., the Section's Program at the Annual Meeting in January, chaired by Jim Cohen of Fordham, and the AALS Workshop on live-client clinics, which will be held next May, without a planning committee yet, but will probably include John Elson). If you would like to make the presentation, or know someone who would be good, say so — this may be a little uncomfortable, but it is not considered bad form. This will expand the information available to the committee and improve the overall quality of the program.

According to Roy, even after programs are announced, it is not necessarily too late to get involved. If there is a segment of the program that you think either you or someone you know could improve, call the chair of the planning committee and say so. Sometimes the slots on programs are not filled quickly and planning committees are desperately searching for people who know something about the topic. Often, some speakers are forced to cancel late in the game, and planning committees are very happy when they have a list of potential replacements.

Another way to get involved is to think of timely topics that are not covered in the main program and which might be suitable for a workshop discussion in some "off peak" time slot. Again, call the chairperson, explain the idea, and offer to help.

Roy says that it has always surprised him how few people take the initiative to offer help with the Section's programs. He can assure you that such offers will be appreciated by planning committees. Even if your idea is not accepted, your initiative and interest will be remembered when future programs are being planned.

Maryland Adopts Mandatory Clinics

The faculty of the Law School at the University of Maryland recently approved an experimental educational program that emphasizes the responsibility of law students to provide legal help to the poor through course offerings that integrate clinical and classroom teaching. The catalyst for the program was the Report of the Advisory Council of the Maryland Legal Services Corporation, chaired by Congressman Benjamin Cardin. To help meet the unmet need for civil legal services in Maryland, the Commission recommended that students help to provide legal assistance to the poor as a formal part of legal education in professional responsibility.

The newly approved program includes a number of first and second year clinical course offerings, and will begin in the 1989 spring semester. Two, three-credit clinical offerings will be attached to two small Legal Method sections in the second semester of the first year. Here students will be introduced to the attorney-client relationship and the basic skills of law practice through simulated exercises and actual client experiences. Comparable three credit clinical offerings will be attached to two small (25 student) sections of Legal Profession during fall semester of the second year. Finally, there will be a new five-credit, one-semester clinical experience

offered to ten second-year students during the fall semester and ten additional students during the spring semester. Altogether, the expanded clinical program will accommodate 110-114 students during their first or second year, a little more than one-half of the incoming day division class. To give every student in the incoming class an opportunity for at least a simulated introduction to law practice, the Law School also will offer during the 1988-89 and 1989-90 school years, two second semester, legal method/civil procedure small sections and an additional component of constitutional law.

The Law School has recently hired three additional clinicians to implement the program. They are: Barbara L. Bezdek (CUNY Queens), David Medine (Indiana), and Marc Feldman (Fresno-Merced Counties Legal Services, Fresno, CA).

ABA Commission on Legal Problems Of the Elderly

The commission is planning to prepare a concise guide to law school courses and clinic on law and aging. A survey will be distributed to law schools in the near future. The directory will list course title, instructor's name, course format and credit hours, and will provide sample syllabi and a bibliography of materials commonly used in these courses. For more information on this project, contact Charles Sabatino at the Commission on Legal Problems of the Elderly, ABA, 1800 M Street NW, Washington, DC 20036, (202) 331-2297.

Study Looks at Student Learning

Steven Hartwell (San Diego) and Sherry Hartwell (San Diego) conducted an empirical study of student learning among 160 first-year

property students. The study, which will be published under the title: "Teaching Law: Some Things Socrates Did Not Try," will be published in the March 1989 issue of the Journal of Legal Education.

The study was designed to measure the effect of three learning interventions in comparison with a control group on student performance as measured by their fall property examination. The students were assigned to one of the three intervention groups or the control group by stratified randomization to assure the students comprising each group were indistinguishable on the basis of their Index (gpa + LSAT). The three interventions consisted of weekly discussions, short-answer quizzes, or essay questions. The authors assert that regular attendance at the essay or quiz sessions boosted student performance but that the discussion had no effect. Results of the study were instrumental in persuading the faculty to institute a midterm break in order to provide students with more learning feedback.

Electronic Mail Connection for Clinicians

Many clinicians are now using computers for managing their clinics and writing. If you have a modem, you probably are using some form of electronic mail. Most universities are connected through a system called BITNET. The system may be available to you at no cost or minimal cost. There are over 2200 BITNET computer nodes in operation around the world.

John Barkai, at the University of Hawaii, is interested in trying to establish a BITNET communication system for clinicians. If you have access to BITNET, write him, or better yet, send a BITNET message to him and he will compile a list of

BITNET addressed of clinicians. Write: John Barkai, University of Hawaii School of Law, 2515 Dole St., Honolulu, HI 96822; his BITNET address is U052100@uhccmv or as an alternative you can try U052100@uhccmv.hawaii.edu.

ACTIVITIES OF THE ABA SECTION OF LEGAL EDUCATION

By Roy Stuckey (South Carolina)

[This report was prepared by Roy to highlight some activities of the Skills Training Committee and of the Council of the ABA Section of Legal Education and Admissions to the Bar During 1987-88. Reactions, ideas, or questions are solicited by Roy; call him at (803) 777-2278 or write to him at South Carolina.]

The Skills Training Committee met in December and in April. It will probably meet again during the ABA Annual Meeting in Toronto. Members of the Committee include: Roy Stuckey, Chairperson; Dean Nina Appel; L. Stanley Chauvin, Esq.; Prof. Fred Hart; Prof. Gary Palm; Judge Dorothy Beasley; William Pincus, Esq.; and Prof. Kandis Scott.

Projects of the Committee during 1987-88 included:

1. The Committee endorsed Section Chairperson Rosalie Wahl's proposal to create an independently funded Task Force of the Section to study professional skills instruction in American law schools. At its June meeting, the Council approved the project and authorized Chairperson Wahl to create the Task Force and to seek funding to support its work over the next three years. The primary goals of the Task Force will include: a) to survey professional skills instruction programs and document the current status of professional skills instruction in American legal education; b) to more specifically define the meaning of Standard

302(a)(iii): "law schools shall provide [adequate] instruction in professional skills;" c) to describe in detail some models of all forms of experiential learning that are designed to enhance professional skills instruction, including simulation courses, other skills courses, and in-house and field placement clinics; d) to address the question of when and how students should obtain supervised live-client practice experience; e) to explore how law schools can more effectively involve practicing attorneys and judges in professional skills instruction; f) to create an agenda for accomplishing any changes in legal education that are recommended in its final report; and g) to assess the needs of law schools for facilities and the other resources they will need to accomplish the agenda described above.

2. In June, the Council of the Section adopted the following statement as a policy of the Section of Legal Education and Admissions to the Bar. The Committee had recommended similar language for adoption as an Interpretation of ABA Accreditation Standard 302(a)(iv).

"Law Schools should make law students aware of the special needs of those groups often underrepresented in legal matters, including minorities, the poor, elderly, and handicapped members of society, facilitate student services to those groups and should instill a sense in their students of the profession's obligation to provide legal services to those who are unable to afford them."

3. The Committee has recommended to the Council adoption of the following Interpretation of ABA Accreditation Standards 205, 403, and 405(e):

"A law school should afford to full-time faculty members whose primary responsibilities are in its professional skills program an opportunity to participate in law school governance in a manner

reasonably similar to other full-time faculty members." The Standards Review Committee of the Section requested and obtained approval of the Council in June to conduct public hearings on this proposal. It will report to the Council in December. [The AALS Executive Committee considered this proposal in May and unanimously agreed to the following statement of its views: "Recognizing that Standard 405(e) is a non-binding standard, the Executive Committee of the Association of American Law School has no opposition to this interpretation where it does not conflict with the policies of the university where the law school is situated."]

4. The Committee recommended in April that the Section co-sponsor the ABA Young Lawyers Division's Law Student Outreach Project. This was approved by the Council at its June meeting. It is expected that the Committee will serve as the Section's liaison to the YLD. The Project is intended to enhance the teaching of professionalism in law schools by coordinating legal education resources with those of the YLD and other entities within the ABA. Over the next year or two, model programs will be developed at a number of schools, including South Carolina, Loyola of Chicago, Houston, Tulane, and Loyola of New Orleans.

5. The Committee encouraged the Section to join the Young Lawyers Division in proposing the following Resolution to the ABA House of Delegates in August: **RECOMMENDATION, BE IT RESOLVED, THAT THE AMERICAN BAR ASSOCIATION** (1) Recognizes and supports the moral, ethical, and social obligation of all attorneys to devote a reasonable amount of time, but in no event less than 50 hours, to service to the Bar, the community, and/or the public at large, (2) Urges all law firms to promote and support the involvement of associates and partners in pro bono and other public service activities by counting all or

a reasonable portion of their time spent on these activities, but in no event less than 50 hours, towards their billable hour requirements, or by otherwise giving actual work credit for these activities, and (3) Urges all law schools to adopt a policy under which the law schools would request any law firm wishing to recruit on campus to provide a written statement of its policy, if any, supporting the involvement of its attorneys in public service and pro bono activities, and that law firms not be allowed to recruit on campus unless such a statement is filed with the law school.

At its June meeting, the Council decided to take no position on the Resolution and will not join the YLD in proposing it to the House of Delegates. Although many members of the Council voiced personal support for the Resolution, it was not felt to be an appropriate issue for Section endorsement. If you, or anyone you can influence, are willing to help the YLD obtain passage of this Resolution at the Toronto meeting, contact Ron Hirsch, YLD Staff Director in Chicago at (312) 988-5608.

Ongoing work of the Skills Training Committee includes: (1) Reviewing the instructions used by site inspection teams and recommending revisions from time to time to Dean James White, Consultant on Legal Education to the ABA; (2) Encouraging Dean White to include more professional skills teachers on site inspection teams; (3) Gathering data on the status of professional skills teachers and issuing annual reports based on that data; and (4) Reviewing information about professional skills instruction obtained from the ABA Annual Questionnaire and other sources, particularly in relation to ABA Accreditation Standards 302(a)(iii), 306, and 405(e).

Additional matters and potential projects discussed by the Committee during the year without any formal action included: (1) The use of adjunct faculty in professional skills instruction. The Committee noted data showing there are approximately four times more adjunct faculty than full-time members of law faculties; (2) The potential value of developing guidelines for externship programs. This project might be particularly well received by law schools which are having difficulty interpreting and adjusting to Interpretation 2 of Standard 306; (3) The need for increased federal funding to support clinical education, including funds for facilities and for fellowships for attorneys to come to law schools to be trained as clinical teachers. The Committee also thought it might be fruitful to work with the AALS in developing federal funding to support innovations in clinical legal education; (4) The need for a document that describes modern tenure standards and practices for clinical teachers. The Committee thought this might be an appropriate project to work on jointly with the AALS Clinical Committee; and (5) A joint project with NALP to convince hiring partners of the importance and value of clinical education for new associates.

Other activities of the Section that may be of interest to clinical teachers included: (1) In October, the Section sponsored a National Conference on Professional Skills and Legal Education in Albuquerque, New Mexico. The Conference was co-chaired by Roy Stuckey, South Carolina and Kathleen Grove, Assistant Consultant on Legal Education to the ABA, Indianapolis. The Proceedings of the Conference will be included in an issue of the New Mexico Law Review to be printed this summer; (2) In December, the Council of the Section approved for

distribution "Suggestions for Part-time Legal Employment of Law Students" a project of the Skills Training Committee since 1985. Copies have been mailed to all law school deans. Additional copies can be obtained from Dean James P. White, Consultant on Legal Education to the ABA in Indianapolis; and (3) Dean Joe Harbaugh of Richmond has resigned from the Accreditation Committee, but remains a member of the Council. Gary Palm remains on the Accreditation Committee. The Honorable Ted Goodwin has been named chief judge of the 9th Circuit Court of Appeals, and he will resign as Section Delegate to the ABA House of Delegates following the Toronto meeting. Sharp Whitmore has been elected by the Council to serve the remainder of Judge Goodwin's term.

**AALS Committee on Clinical
Legal Education**

By Peter T. Hoffman, Chairperson

The Committee on Clinical Legal Education met in Washington, D.C. on April 11, 1988, with the following members present: Peter T. Hoffman, Chair; Dennis E. Curtis; Edward A. Dauer; Stephen J. Ellmann; Frederick M. Hart; and Graham B. Strong.

The Committee considered the following matters:

Proposed Interpretation of
Standards 205, 402 and 405(e)

The Executive Committee at its meeting on February 5, 1988, referred the matter of the above Proposed Interpretation to the Committee for comment. In particular, the Executive Committee requested the Committee "to gather information about what are the current law school practices regarding clinicians' involvement in governance and information on university practices and regulations that might be relevant to this proposed

interpretation." The Executive Committee also requested the Committee's views on "whether the interpretation should make clear whether it is referring to tenure or tenure-track professional skills personnel, or all full-time professional skills personnel, including those on one year, non-renewable contracts such as some legal writing teaching fellows, and whether all areas of governance are covered, including hiring, tenure, and promotion issues."

The Committee on Clinical Legal Education considered the proposed interpretation at the Committee's meeting January 8, 1988, and at that time urged approval of the interpretation by the Executive Committee. In response to the new request of the Executive Committee, the Committee again discussed the matter. The Committee was unanimously of the opinion that the future of clinical legal education will only be insured when clinical teachers are accorded the status of full members of the academic community. Therefore, all barriers to clinical teachers obtaining this status, including barriers of employment security, status, and participation in law school governance, should be removed. As a reflection of this view, the Committee strongly urges the Executive Committee to support the adoption of the proposed interpretation. [See the report of the Executive Committee action, infra at page xx.]

In response to the Executive Committee's specific questions, the Committee arrived at the following conclusions: (1) Current Law School Practices — The Skills Training Committee of the ABA Section on Legal Education and Admissions to the Bar has published the results of two surveys regarding the status of professional skills teachers, the

first for the 1985-86 academic year and the second for the following year. The figures for the 1986-87 academic year indicate that for reporting schools, 64% of all clinical teachers are accorded the same rights at faculty meetings as other teachers; 20.1% of clinical teachers may attend faculty meetings, but are not entitled to vote; 11.4% are permitted to attend, but are prohibited from voting on certain matters; and 4.5% are not allowed to attend faculty meetings at all. Thus it appears a large majority of clinical teachers are already allowed to participate in faculty meetings on all or most matters.

(2) University Practices — The Committee was unable to ascertain any source for the requested information.

(3) Clinical Teachers Covered — Accreditation Standard 405(e) applies only to full-time faculty members. Therefore, the Committee is of the view that the proposed interpretation applied to all full-time faculty members. However, the current interpretations of 405(e) make clear that this accreditation standard does not apply to short term, experimental, or "soft money" positions. Thus, the proposed interpretation applies only to those faculty members who are entitled to "a form of security of position reasonably similar to tenure" as required by Accreditation Standard 405(e). In conclusion, the Committee believes the proposed interpretation does make clear what teachers are encompassed within its scope.

(4) Matters To Be Voted On — The proposed interpretation states that the opportunity to participate in law schools governance shall be "reasonably similar" to other full-time faculty members. This tracks the language in Accreditation Standard 405(e) that states the form of security given to full-time skills teachers shall be "reasonably similar" to tenure. The Committee is of the view that the proposed

interpretation calls for reasonable similarity with respect to all areas of governance including hiring, tenure, and promotion issues. What constitute reasonably similar participation in law school governance is left to the ongoing interpretation of each law school in the same manner that this language in the Accreditation Standard has also been left to the individual law schools. In conclusion, the Committee views the proposed interpretation as simply a clarification of the language of Accreditation Standard 405(e) requiring that full-time skills teachers be accorded perquisites reasonably similar to those accorded other full-time faculty members. Participation in law school governance is merely a perquisite of faculty status.

Proposed Interpretation of Standard 302(a)(iv)

The Committee was asked to consider the above matter and its relationship to clinical legal education. The language of the proposed interpretation up to the semicolon met with the unanimous approval of the Committee. However, there was concern expressed about the remaining language requiring that "law schools should facilitate students' services to these groups." Several members of the Committee were concerned that this language could be interpreted to require that clinical programs treat only the problems of the disadvantaged, thereby restricting clinical programs dealing with legal problems of other members of society. As a result, the Committee was evenly divided in deciding whether to urge support of the proposed interpretation.

Statement of Faculty Practices and the AALS Role

The Committee reviewed the proposal of the Committee on Academic Freedom and Tenure for the creation of a

committee to develop a statement of faculty practices. The members of the Committee on Clinical Legal Education were doubtful about the entire endeavor and, as law teachers in general, found much to disagree with in the draft reviewed. However, the Committee did not see any matters requiring the special expertise of clinical teachers as the statement is currently written. The Committee requests that if the Executive Committee decides to go forward with the proposal, this committee be kept apprised of what is occurring as issues specifically affecting clinical legal education may arise in future drafts.

Clinical Section Dues

The Committee discussed the recent decision of the Executive Committee to deny the request of the Section on Clinical Legal Education to use section funds to bring Section committee heads together for a meeting to formulate plans for the coming year. The Committee views the Section on Clinical Legal Education as having a unique function of serving as a vehicle for arranging and supporting morale among clinical teachers. At many schools clinical teachers are accorded less than full acceptance as faculty members with a corresponding adverse affect on morale. The Section has always played an important role in advancing the interests of clinical teachers and providing them with a vehicle for participation in the affairs of the AALS and in academia in general. The Committee urges that deference should be given to the special role of the Section on Clinical Legal Education and uses for Section funds that have been approved by the Section should not be opposed.

Clinical Teacher Salaries

The Committee discussed barriers to the acceptance of clinical teachers as full members of the law school community and the consequences of

such barriers. In particular, the Committee is concerned that such barriers make clinical teaching an unattractive career choice for persons seeking entry into law school teaching and cause qualified clinical teachers to transfer over to traditional teaching or to leave law school teaching entirely. Salary differentials between clinical teachers and traditional law school teachers was seen as a particularly harmful barrier because of its perceived reflection on the status of clinical teachers vis a vis traditional teachers. As long as salary differentials continue to exist, clinical teachers will be accorded a second class status among law school teachers.

The Committee believes that the extent, if any, of salary differentials cannot be determined on the basis of currently available data. Therefore, the Committee requests the Executive Committee to approach the ABA to request that salary data be collected comparing clinical teachers with traditional teachers on the basis of rank, starting salary, and years from graduation. One mechanism for obtaining such data will be the use of a salary grid on the ABA Annual Deans Questionnaire requiring that salaries be identified for clinical teachers and traditional teachers on the basis of years since graduation. Such an approach would result in very little change to the Deans Questionnaire and would impose little additional hardship on responding schools.

AALS Members of ABA Accreditation Teams

At its meeting on July 21, 1987, the Committee passed a resolution urging the AALS to give as fair and equal consideration to qualified clinical teachers for appointment to accreditation teams as that given to traditional teachers. At the time of

the Committee resolution, the AALS had appointed only one clinical teacher as the AALS member of an accreditation team. Betsy Levin reported to the Committee at this meeting that since the Committee's resolution, an additional clinical teacher had been appointed. The Committee urges continued efforts of the AALS to appoint qualified clinical teachers as the AALS designated member of accreditation teams.

Future Clinical Activities

The Committee spent some time considering the future activities of the Committee and what role the Committee should play. Some of the proposals considered and approved were: (1) The development of a clearinghouse for data collection on clinical teaching and clinical education. Since the end of the Council on Legal Education for Professional Responsibility, there has been no body serving as a clearinghouse on the number and type of clinical courses being offered or on the role of clinical education; (2) Apprising the Executive Committee and other interested groups on developments in clinical legal education; (3) Producing a series of videotapes on models of effective clinical teaching such as forms of supervision, types of simulation, etc. The tapes would be available for those persons interested in improving their clinical teaching skills; (4) Assembling a collection of readings on clinical legal education. The idea is to collect leading writings on clinical legal education in a way similar to previous AALS publications on, for example, constitutional law; (5) Revise the AALS/ABA Guidelines for Clinical Education. In the short period since their publication in 1980, the Guidelines have become dated and, in many instances, are no longer applicable to clinical legal education as it exists today. The

Guidelines require revision and the Committee should play a role in accomplishing this; and (6) Identification of impediments to the acceptance of clinical teachers as full members of the law school community and proposals developed for eradication.

Action of the AALS Executive Committee Taken In Response to the Report of the Clinical Legal Education Committee

The Executive Committee of the AALS forwarded to Dean James P. White, Consultant on Legal Education to the ABA, the following views on Proposed Interpretations of Standard 205, 403 and 405(e) and Standard 302(a)(iv).

Proposed Interpretation of ABA Standard 405, 403, and 405(e). During the discussion of this issue several members of the Executive Committee indicated that, in their view, all full-time members of the faculty should participate reasonably in governance, but that each law school should be allowed the flexibility to develop its own way rather than having any one particular approach imposed upon it. In the view of the Executive Committee, this interpretation does not dictate any one form of governance and thus the Executive Committee unanimously agreed to the following statement of its views: "Recognizing that Standard 405(e) is a non-binding standard, the Executive Committee of the Association of American Law Schools has no opposition to this interpretation where it does not conflict with the policies of the university where the law school is situated."

Proposed Interpretation of ABA Standard 302(a)(iv)

During the discussion of this question, members of the Executive Committee expressed the concern that

the interpretation may be read as requiring students to provide services to those groups underrepresented in the legal process as a matter of accreditation of the law school. Thus, the Executive Committee was concerned that the portion of the clause following the semicolon could be read to impose fiscal and service obligations on law schools. Several members of the Committee were also concerned that the clause following the semicolon could be read to shift from the bar to the law schools the primary responsibility for serving those underrepresented, with the burden falling most heavily on clinics. Thus the Executive Committee unanimously expressed its opposition to that portion of the interpretation that indicates that law schools "should facilitate students' services." With regard to the first portion of the interpretation, the Executive Committee supported the notion that law schools should make students aware of the needs of those persons who are underserved by the law and, indeed, would go further to say that "law schools should instill a sense in their students of the profession's obligation to provide legal services to those who are unable to afford them."

With regard to the request of the Clinical Education Committee that the Clinical Legal Education Section be able to use its dues for whatever purposes it wishes, the Executive Committee reaffirmed the position that it took at its meeting of February 5, 1988, when the Executive Committee voted unanimously not to approve the request of the Section on Legal Education at this time. This issue has now been referred to the Long-Range Planning Committee that was recently appointed by President Huber for consideration in the context of other sections that also may have a "special role."

TITLE IX AND YOU

By Peter T. Hoffman (Nebraska)

Reading Grants can be an eye opener. I have just returned from Washington, D.C. where, for an entire week, I read grants for the Department of Education's Law School Clinical Experience Program. Let me pass on some of the things I learned.

We, as clinicians, have dropped the ball. DOE has \$3.9 million to give away this year. If they fund every grant application to the full amount requested, \$200,000 will have to be returned to the Treasury. Next year it is expected there will be \$5 million for this program. We cannot cry poverty and then let these funds go by the way. Worse, Congress will end the program if they do not see a need for it.

Why didn't more schools apply? I have heard a number of reasons, most of which should not be real obstacles:

* "I didn't get an application package."

Apparently application packets were only sent to schools that had applied for a grant last year or made a special request. If you didn't apply this year, then write to be put on the mailing list to:

Dr. Charles Miller
OPE/DHELP
ROB3, Room 3514
7th & D Streets, S.W.
Washington, DC 20202

* "The grant is for only one year."

It is true the regulations state grants will be awarded only for the expansion or improvement of a clinical program. However, for the past several years, this has been interpreted to mean the continuation of a grant will satisfy this requirement if the original grant was for an expansion or improvement.

Past interpretations are not binding on future readers and I suspect that when there isn't enough money to go around, continuations will not be treated as favorably as first time requests, but that hasn't been the problem recently.

* "My school can't afford the match."

The fifty percent match requirement can be satisfied in two not readily apparent ways. First, while indirect costs cannot be requested as part of the grant amount, they can be used for the match. Be aware, however, that the readers will prefer to see real money used and will treat those applications with real money more favorably. Second, at least for this year, the match could consist of present contributions to clinical education and not just new money or money in the program which is the subject of the grant request. Again, these interpretations may change in the future, but for this year it was the case.

* "My application was turned down in the past."

Don't be discouraged. Instead, try to improve your next application. Here are some suggestions. 1) Write to Dr. Miller for your review forms. The readers try to give helpful information about what was lacking in an application. These comments are contained in the review forms and should be examined by you. 2) Read the program requirements very carefully. The regulations contain restrictions on what types of programs can be funded. No matter how educationally sound a program is, if it doesn't fit the grant requirements, it will not be funded. For instance, a successful application must "propose activities to provide legal service to persons who have difficulty in gaining access to legal representation." 3) Present your application in such a

format that readers can easily see it satisfies the criteria against which applications are evaluated. You would be surprised at how many applications contain twenty pages of solid verbiage with no effort to highlight those points to which the readers should pay attention. In short, use headings corresponding to the criteria and respond to the criteria in clear and concise manner. Length is not a substitute for quality.

* "I don't know how much money to ask for."

The application packet gives an estimate of how many and what size grants will be awarded. However, you can get a better fix by taking the appropriation for the next year when it is announced and dividing it by the number of applications for this year (67). Also, if the amount requested is too high, the worse that usually happens is it is negotiated downward after the grant is awarded. It usually does not result in a lower score in the grant reading unless padding is going on.

* "I don't know what to emphasize in my application."

Review the criteria in the application packet, but let me suggest some points to hammer home:

- Show the expansion is a true expansion, i.e., it will result in the addition of faculty and not mere substitution.

- Show the school's commitment to clinical education is increasing through larger budgets, new courses, etc.

- Show compliance with ABA Accreditation Standard 405(e).

- Have a quantifiable method of evaluation including evaluation of students, clients or others evaluating the program and students

evaluating the program.

- Discuss the educational objectives of the program and how these will be satisfied. Be clear and specific on how the program will be administered and how it will be taught.

- Show an adequate number of credits for the work required.

* "I want to be a grant reader."

Send your resume and social security number to Dr. Miller.

A last thought. There is some talk that the regulations for the Law School Clinical Experience Program will be revised for next year. If you have thoughts or suggestions how this should be done, Dr. Miller would appreciate hearing from you.

Bob Seibel (Cornell) asks that clinical teachers in the region around Cornell interested in the possibility of having a regional clinical teachers meeting some time next year to contact him or Barry Strom at Cornell. Write to them at Cornell Legal Aid, Myron Taylor Hall, Ithaca, NY 14853, or call area code (607)255-4196.

AMONG OURSELVES

Steven Hartwell (San Diego) collaborated with Gordon Bermant, a member of the Research Division of the Federal Judicial Center, on a study of a mediation program recently initiated by the bankruptcy bench in San Diego. The program provides a free, non-binding mediation procedure for parties who voluntarily opt for it. The study - Alternative Dispute Resolution in a Bankruptcy Court: The Mediation Program in the Southern District of California - will be published as one of a series of monographs the Federal Judicial Center prepares as part of its

on-going research for the federal court system.

Elizabeth M. Schneider (Brooklyn) has been elected chairperson of the AALS Section on Women in Legal Education. Elizabeth was quoted recently in an article on Women in Law in the June issue of ABA JOURNAL.

The same issue of the ABA JOURNAL contained a photographic representation of our Section's leader, Bill Greenhalgh (Georgetown), who predicts that Oliver North and John Poindexter "are going to be found innocent."

Gary Lowenthal (Arizona State) coached the winning student team in the ABA's 1987-1988 Negotiation Competition. Carol Lieberman (Boston College) was coach of the second place team.

Stephen Wizner (Yale) gave DePaul's Faculty Seminar Lecture on March 14. His title was "What is a Law School? Clinical Legal Education and the Law School of the Future."

James A. Cohen (Fordham) participated in a symposium at Hofstra on March 30 titled "Special Prosecution and the Role of the Independent Counsel."

The AALS Section on Poverty Law has five clinicians as officers for the 1988 academic year: Chair Michael S. J. Gallagher (Loyola New Orleans); Chair-Elect Henry Rose (Loyola Chicago), and Executive Committee Members Larry R. Spain (North Dakota), Nina W. Tarr (Northern Illinois), and Mary Wolf (Indiana - Indianapolis).

W. Lewis Burke, Jr. is the new Director of Clinical Education at South Carolina. Roy Stuckey resigned his administrative duties after twelve years as Director. Roy remains at South Carolina as a clinical professor and "a happier person."

Jim Klein (Toledo) welcomes a new colleague to the general practice clinic. Professor Henry Schaffer will join Jim in the fall. Professor Schaffer comes from the "regular" faculty.

Richard Boswell (Notre Dame) has been elected to the Executive Committee of the AALS Section on Immigration Law.

Andrew J. Shookhoff (Vanderbilt) is serving on the Executive Committee of the AALS Section on Family and Juvenile Law.

Sandy Ogilvy (Thurgood Marshall) has been named "Teacher of the Year" by his colleagues at the law school for the second consecutive year.

John E. Bonine (Oregon) is Chair-Elect of the AALS Section on Environmental Law.

Carol Bensinger Liebman (Boston College), Carrie J. Menkel-Meadow (UCLA), and David Medine (Indiana-Bloomington) are members of the Executive Committee of the AALS Section on Alternative Dispute Resolution.

Bob Seibel (Cornell) reports that JoAnne Miner and Glenn Galbreath have each been reappointed to new 3 year contracts in the clinic. Joy Blumkin recently gave birth to a son, Joseph;

she will continue to teach in the clinic next academic year. Barry Strom and Bob Seibel have each been given a semester research leave for the next academic year. Barry will be developing materials and working on a book about case planning. Bob will be working on a variety of projects including writing about his work with computers; he also hopes to complete and publish some reflections on clinical teaching and negotiation. Cornell is in the midst of having all of the clinic office space renovated, which will increase space by 30%.

PUBLICATIONS BY CLINICIANS

Ashe, Marie (West Virginia). "Law-language of maturity: Discourse holding nature in contempt," 22 *New Eng. L. Rev.* 521 (1988).

Cohen, James A. (Toledo). "Self-Love and the Judicial Power to Appoint A Special Prosecutor," 16 *Hofstra L. Rev.* 23 (1987).

Gifford, Donald G. (Florida) and Nye, David D. "Litigation Trends in Florida: Saga of a Growth State," 39 *U. Fla. L. Rev.* 829 (1987).

Grosberg, Lawrence M. (Michigan). "Illusion and Reality in Regulating Lawyer Performance: Rethinking Rule 11," 32 *Vill. L. Rev.* 575 (1987).

Klein, James M. (Toledo), with Browne, J. Patrick and Murtaugh, John P. *Baldwin's Ohio Civil Practice* (3 vols.).

Lubet, Steven (Northwestern). "Regulation of judges' business and financial activities," 37 *Emory L.J.* 1 (1988).

Munger, Frank (Buffalo). "Social Change and Tort Litigation: Industrialization, accidents, and trial courts in southern West Virginia, 1872 to 1940," 36 *Buffalo L. Rev.* 75 (1987).

Stark, Barbara (Rutgers-Newark). "Constitutional Analysis of the Baby M Decision," 11 Harv. Women's L.J. 19 (1988); "Spousal Support Since the Enactment of No-Fault Divorce: Small Change for Women." in Helping Children & Families: The Best of AFCC (Association of Family and Conciliation Courts), Twenty-Fifth Anniversary Program 52-96 (May 1988).

PUBLICATIONS OF INTEREST

"A Colloquium on Improving Dispute Resolution: Options for the Federal Government," 1 Admin. L.J. 399-588 (1987).

Brecher, Joseph J. "The Public Interest and Intimidation Suits: A

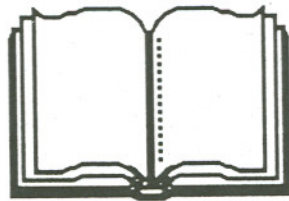
New Approach," 28 Santa Clara L. Rev. 105 (1988).

Clark, David S. "The Role of Legal Education in Defining Modern Legal Professions," 1987 BYU L. Rev. 595.

Kissam, Philip C. "The Evaluation of Legal Scholarship," 63 Wash. L. Rev. 221 (1988).

Levine, Bruce. "Legal Education-A Personal Reflection After Twenty Years," 27 Washburn L. J. 330 (1988).

Wren, Christopher G. and Jill Robinson Wren. "The Teaching of Legal Research," 80 Law Library J. 7 (1988). (See esp. pp. 24-26.)



...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...JOBS...

Brooklyn Law School is seeking a visitor for either the fall 1988 or spring 1989 semester to teach in its Federal Litigation Clinic, a 12 credit program in which students handle a variety of cases including civil rights, employment discrimination, and social security disability matters in the district and circuit courts. The visitor will be responsible for supervising about 6-8 students and for co-teaching a weekly seminar. A person with demonstrated clinical teaching ability and some federal civil litigation experience would be the ideal candidate. The law school may have an apartment available for visiting faculty at below market rates. Contact Professor Stacy Caplow, Director of Clinical Education, Brooklyn Law School, 250 Joralemon Street, Brooklyn, NY 11201 (718) 780-7944.

Indiana University - Indianapolis is seeking applicants to teach and supervise case work in the Civil Practice Clinic. Students handle a variety of civil cases including administrative, family, juvenile and housing problems. The clinic is expanding to include legal problems of the elderly. The applicant should have familiarity with the types of cases handled in a poverty law office and experience in supervising new attorneys or law students. The supervisors teach students through classroom instruction as well as one on one supervision. The position will be available in August 1988. For further information contact: Mary Wolf, 735 West New York Street, Indianapolis, Indiana 46202. (317)274-3803 or (317) 639-4151.

Pace University School of Law seeks qualified applicants to fill two openings; one is as associate dean/director of clinical education

and the second is for a clinician/faculty member to set up and supervise the general civil/civil rights litigation clinic.

The position of associate dean/director of clinical education requires supervision of Pace's clinical program including long range planning, budget responsibility and overall supervision of an appellate litigation and environmental law clinic, a civil litigation clinic to be started in fall 1989, and three externship programs. The associate dean will also be a faculty member and will be expected to set up and supervise a clinic of his or her own.

The clinician/faculty member position requires setting up and supervising a live-client clinic to handle general civil/civil rights litigation. Both clinics operate under the aegis of John Jay Legal Services, Inc. a not-for-profit legal services corporation formed to support the clinical legal education program at Pace.

A newly renovated 100 year-old house on the edge of the 12.5 acre suburban White Plains campus, 25 miles from midtown Manhattan, serves as the clinical offices. An on-site library contains complete New York and federal statutes and reporters as well as WestLaw and Lexis access for both faculty and students. The faculty/secretary ratio is 2 - 1. Each faculty member has a sophisticated PC-based word processor and additional computers are available to students.

Applicants should have strong academic credentials and relevant practice and/or teaching experience. Admission to New York bar is not required. Minority candidates are strongly urged to apply. Both positions are full-time, tenure track appointments to begin in the 1989-90

academic year. Salary is commensurate with New York area salaries for legal services lawyers and teachers with equivalent experience.

Applications should be submitted as soon as possible, and in any event,

no later than March 1, 1989. To apply, submit a letter of application along with a resume or curriculum vitae to: Professor Lissa Griffin, Director of Clinical Education, Pace University School of Law, 33 Crane Avenue, White Plains, NY 10603. (914) 681-4333.

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