

NEWSLETTER

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MESSAGE FROM THE CHAIR

Graham Strong (Cornell)

If you put a cosmic stethoscope to the chest of the Clinical Section, I think that you would find two heartbeats. One would be located in the Section's strong committee structure, where much of the real work of the Section goes on throughout the year. The second heartbeat of the Section appears periodically when the national community of clinicians gathers for programs and workshops and conferences. My last message listens in on each heartbeat.

I. The Final Report of the Committee on the Future of the In-House Clinic

After a long gestation period and intensive labor, the Committee on the Future of the In-House Clinic, chaired by Bob Dinerstein, has delivered its Final Report. It is an important document which deserves the close attention of the Section membership, and which will undoubtedly serve as a valuable permanent resource for clinicians considering the evolving state of the in-house, direct representation clinic.

The Committee was conceived by Gary Palm almost five years ago, when there was building concern that the in-house clinic might be on the decline. The rumor was abroad that student demand for live-client clinics was dropping. The pedagogical value of live-client clinics was being challenged on a theoretical level in published criticism. On a practical level, the cost effectiveness of live-client clinics was being questioned by those who suggested cheaper alternative models. Against this backdrop, the Section's Executive Committee approved the formation of a special long-range planning committee to focus upon the state and future of the in-house, live-client clinic.

In this issue of the *Newsletter*, you will find a detailed executive summary of the Committee's Final Report. A copy of the full report, a major document some 135 pages in length, will be mailed

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

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to a Section member at each law school with the request that the report be recopied and circulated to the other Section members at that law school. A limited number of copies of the report will also be available at the day-long Section program during the Annual Meeting next month.

I congratulate the Committee on a difficult job well done, and commend its report to your careful attention. Special thanks are due to Bob Dinerstein, John Elson, Phyllis Goldfarb (who all chaired or co-chaired the committee at some point, and to David Gottlieb, Marjorie McDiarmid, Kathy Sullivan, and Gary Palm (who with the chairs, took leading roles in drafting the committee's report). When you examine the report, you will find substantial survey data that not only refutes the myth of declining student demand for clinics, but also offers a revealing profile of in-house clinical education in the late 1980's. You will find, in addition, a thoughtful discussion of the in-house clinic's distinctive pedagogical value, a detailed consideration of the working conditions of the clinician, and a set of proposed guidelines for the in-house, live-client clinic. The report concludes with a set of specific recommendations for the Section and its leadership.

I should emphasize that the report is not being distributed as a statement of the views of the Section, nor, of course, as a statement of the views of the AALS. It is distributed to you for your interest and discussion, and also so that you will have the basis to decide if any action on the part of the Section regarding the report—including the possibility of its formal endorsement—is appropriate. The principal authors of the report will be discussing its subject matter at an afternoon session during the Clinical Section's program at the Annual Meeting, and the report will also be on the agenda of the Section's Business Meeting that evening. Be there, or be square.

The work of the Committee on the Future of the In-House Clinic is an excellent example of the valuable contributions to clinical education performed each year by the Section's committees. Everyone who would like to get involved in the broad ongoing work of the Section is more than welcome to do so: all you need to do is to express your interest by signing up for a committee appointment during the Annual Meeting, or by expressing your interest directly to Jeff Hartje (Denver), the incoming chair. A number of the Section committees will, in addition, hold open meetings during the Annual Meeting on Friday, January 4, between 9:00 and noon. Please feel welcome to attend and join in.

II. The 1992 Conference on Clinical Legal Education

National professional gatherings have been a second primary locus of the ongoing work of the clinical movement. They have, over the years, performed a particularly powerful role in the formation of a national community of clinical teachers, and in the evolution of the clinical method itself.

At one time, it was traditional for the AALS to sponsor a week-long national clinical conference each year. Over time, the

Association shortened the week-long workshop to five days. It substituted a week-end workshop for a full conference in alternate years. For staff convenience, the Association implemented a new policy requiring that all workshops be held in the District of Columbia. Now, it appears that an additional change of policy will further restrict the opportunity of clinicians to gather under the auspices of the AALS.

The AALS Executive Committee recently approved the scheduling of a Conference on Clinical Legal Education, and a Conference on Property, during the spring or summer of 1992. It did not, however, approve the full five-day conference that the Clinical Section had requested. Instead, it adopted the recommendation of the Professional Development Committee for a clinical program limited to three to four days in length, with the precise duration to be determined by the planning committee. The rationale given for this recommendation was that "for administrative reasons only one full conference can be held each year." Because the clinicians had held more conferences than property professors in recent years, the committee recommended that the single full conference be on property. The Professional Development Committee's recommendation did not mention that more than one full conference had been held in years past without producing administrative meltdown within the AALS.

It is disappointing to see a further whittling away of the tradition of frequent and substantial professional development programs for clinicians under the sponsorship of the AALS. That tradition has been perhaps the single most valuable benefit that clinicians have gained from participation in the Association. The progressive weakening of that tradition suggests, once again, the need for clinicians to consider alternative ways to accomplish their goals.

III. The Annual Meeting

One tradition that is still intact and thriving, however, is the practice of holding an extended, day-long program of the Clinical Section at the Association's Annual Meeting. The Annual Meeting Program Planning Committee, chaired by John Barkai, has put together an especially strong extended Section program for Thursday, January 3, as reported in the last edition of the Newsletter, and I hope that you can attend. Let me add a few special program notes and additions to pique your interest.

One of the things that I think all of us find most attractive about national clinical programs is the opportunity they present for informal interchange with others who have the "clinical gene" and with whom we share a natural community of interest. A unique experimental feature of the Section program at the Annual Meeting is the "Exchange Room," a special area set aside especially for informal interchange during the extended program. Another opportunity for informal interchange, not previously announced, is a RECEPTION AND OPEN MEETING OF THE EXECUTIVE COMMITTEE, scheduled

for 6:00 - 8:00 p.m. on Wednesday, January 2, in the Richmond Room on the lobby level of the Sheraton Washington Hotel. All are welcome, and we hope to have both food and drink available. And don't forget the Section Luncheon! The featured event is the announcement of the Section's Annual Award, and the remarks of the Award recipient. A splendid time is guaranteed to all (and, of course, Henry the Horse dances the waltz).

COMMITTEE REPORTS

ATTORNEYS FEES COMMITTEE

by Larry Grosberg (New York Law School), Chair

Several of the committee members as well as a few others met at Ann Arbor last June. As in the past we tried to reach some kind of a consensus about how to proceed. That goal still has not been achieved. There remains a wide variation of practices among the different law schools as to how fees are dealt with. I propose that we try again in Washington to reach some conclusion on the subject. I will bring extra copies of a draft Statement of Operating Principles that the Committee previously prepared. Perhaps someone will be inspired to lead us out of the morass.

Members: Michael Axline (Oregon); Patrick Flynn (South Carolina); Keith Harrison (Illinois); Susan Kay (Vanderbilt); Minna Kotkin (Brooklyn); Doug Parker (Georgetown); Randall Schmidt (Chicago); Ronald Schwartz (Chicago-Kent); James Stark (Connecticut); David Thomas (Chicago-Kent).

CLINICAL SCHOLARSHIP COMMITTEE

Marie Ashe (West Virginia) and
Tony Alfieri (Marquette), Co-chairs

The Committee on Clinical Scholarship will sponsor the presentation of a scholarly paper during the day-long Clinical Section Workshop at the AALS Annual Meeting, January 3, 1991. The paper will be read and discussed in one of the afternoon concurrent sessions, from 2:00 - 3:30 p.m. An Abstract of the paper to be presented is included in the *Newsletter* at page 11.

DIVERSITY COMMITTEE

by Suellyn Scarnecchia (Michigan), Co-chair

The Diversity Committee will hold a meeting during the AALS Annual Meeting (January 2-6). The day, place and time will be announced during the Clinical Section program on Thursday, January 3. Anyone who wishes to join the committee should attend the meeting in Washington or contact one of the co-chairs.

We will also sponsor the program for a luncheon at the Clinical Section Workshop in the spring of 1991. The program is entitled "Law Students Speak Out on Diversity." If you know

of a student organization or individual students who are actively involved in diversity issues at your school, please pass a contact name and number to Suellyn Scarnecchia, 313/763-5000.

EXTERN COMMITTEE

by Leah Wortham (Catholic), Chair

Thanks to John Barkai and his Planning Committee we will be having two sessions specifically related to externships on the Annual Meeting Program, January 3, 1991. As printed in the last Newsletter, Linda Smith has organized a session on Judicial Externships: Structure, Supervision and Curriculum, from 2:00 to 3:30. With her on the program will be Bob Bloom from Boston College and Roy Stuckey from South Carolina (visiting this year at Vermont Law School). From 3:45 to 5:15, Lisa Lerman from Catholic has organized a session on The Externship Seminar: Options and Problems in Relating the Classroom to the Field Experience. With her will be Susan Carpenter from CUNY, Carol Liebman from Boston College, and Sandy Ogilvy from Thurgood Marshall.

After the plenary session, the 10:45-12:00 slot is slated for networking between new(er) and more experienced clinicians. Although some of this may be done geographically, this also may be a good time to meet new extern clinicians and perhaps to discuss some of the topics on which there has been interest in the past, e.g., use of journals, learning contracts, and other particular educational strategies.

I have agreed to chair the Extern Committee for the next year as well. The Committee will meet Friday morning, January 4, at 8:30 in the Taft Room. We have the room reserved until 12:00. From the grapevine I understand there still is a fair amount of concern and confusion about ABA accreditation activity under Standard 306 so that will be one topic. I have deemed everyone working in externship programs willing to attend to be a member of the Committee, and I hope all externship clinicians who will be at the Annual Meeting will attend. If you have any ideas about topics or things to cover, give me a call before Christmas.

FUTURE OF THE IN-HOUSE CLINIC

by Robert Dinerstein (American), Chair

Final Report of the Committee on the Future of the In-House Clinic:

The Committee has produced an extensive report that will be presented to the Section at its business meeting at the January AALS annual meeting in Washington, DC. So that members of the Section may have some familiarity with the report's contents, we are publishing the introduction and executive summary in this issue of the *Newsletter*. Multiple copies of the complete report will be available at the annual meeting. [In addition, one copy of the 135-page report will be mailed by the Section to each law school that has a clinician who is a member of the

Section —ed.]

INTRODUCTION

In 1986, the chair of the AALS Section on Clinical Legal Education at that time, Gary Palm (Chicago), sought and received authorization from the Section's Executive Committee to create a special committee, the Committee on the Future of the In-House Clinic. Professor Palm appointed Professors John Elson (Northwestern) and Robert Dinerstein (American) as co-chairs of the Committee and charged the Committee to examine a broad range of issues related to live-client, in-house clinical education. He noted that the Committee's task would be "difficult and demanding." These words were indeed prophetic.

Not long after the creation of the Committee, Committee members concluded that the most effective way to organize the daunting task before them was to divide the Committee into various subcommittees. Each subcommittee was to analyze closely a specific aspect of live-client, in-house clinical education and draft a report that the entire Committee would consider.

The first subcommittee was charged with the task of identifying the pedagogical justifications for live-client, in-house clinics. Taking as its point of departure Gary Palm's comment that "live client clinical education ha[d] remained stagnant,"² the Committee believed that it was essential for clinicians to articulate (or re-articulate) the wide range of pedagogical goals that clinics seek to achieve. Professor David Gottlieb (Kansas) chaired the subcommittee on pedagogical Justifications and was the primary drafter of Section I of the Committee's Report. The listing and analysis of clinical goals in that Section is testament to the richness and diversity that is live-client, in-house clinical instruction.

The Committee determined early on that there was a paucity of data on what clinicians thought about some of the critical issues facing in-house clinics. Accordingly, the Committee concluded that data collection would be a crucial part of our project. Under the able direction of Professor Marjorie McDiarmid of West Virginia, the data collection subcommittee, which also included Professors Carolyn Kubitschek (Hofstra) and Rob Dieter (Colorado), conducted a sophisticated survey (and later a limited re-survey) of a sample of clinicians. The committee's more interesting findings was that reports of declining student demand for in-house clinics were, to paraphrase Mark Twain, greatly exaggerated. The subcommittee's report covers clinicians' views on such issues as faculty status, the critical challenges facing in-house clinics, faculty:student ratio, and implementation of ABA Standard 405(e).

No report on in-house clinics would be complete without an assessment of the state of the clinical teacher. The "working conditions" subcommittee, comprising Professors Kathy Sullivan (Brooklyn), Susan Kay (Vanderbilt), and Peter Hoffman (Nebraska), examined the key issues of clinical education as seen through the eyes of those who teach in that setting. Section

III of the Committee's Report reflects the fruits of the subcommittee's efforts. It draws on the data developed by the data collection subcommittee, supplementing it with impressionistic observations that flesh out some of the raw numbers.

Committee co-chairs Elson and Dinerstein comprised a subcommittee whose task was to draft a series of minimum guidelines that could be used by clinical teachers in the assessment of their clinical programs. In addition to the Guidelines themselves, the subcommittee determined that it would be useful to include commentary to the Guidelines; references to the data generated by the data collection subcommittee; and cross-references to the Association of American Law Schools—American Bar Association Guidelines for Clinical Legal Education, issued January 1980. The Guidelines, commentary, and cross-references appear as Section IV of this Report. Perhaps the most important aspect of the Guidelines is their emphasis on the need for clinical teachers to articulate clearly their program goals and structure the case selection, faculty:student ratio, seminar component, and other program facets so as to be consistent with those goals.

Finally, the Committee Report includes a series of recommendations to the section's leadership, styled a charter for Section leadership. These recommendations appear as Section V of this Report. A number of the recommendations are designed to call attention to the need for clinicians to develop structures that will enable them to keep abreast of the plethora of developments that have affected and will affect clinical education. The primary drafter of this Section was Gary Palm, the driving force behind the Committee's creation. The Committee's work thus comes full circle.

In addition to the Committee members mentioned above, other Committee members have given generously of their time and have been dutiful in attending Committee meetings and commenting on drafts of this Report. A list of the committee membership, which as with most Section committees has evolved over the course of the Committee's existence, is appended to this Report. The Committee's work product has been improved greatly by the contributions of these Committee members.

Those of us who have been involved with the Committee from its inception did not contemplate that it would take almost four years for it to complete its report. Section chairs who followed Gary Palm—Peter Hoffman (Nebraska), William Greenhalgh (Georgetown), Susan Kovac (Tennessee) and Graham Strong (UCLA)—graciously agreed to continue this special committee so that the Report could be completed. Like many a government agency, the Committee has become persuaded that there is a valuable continuing role for it to play should the Section decide to keep it in existence. In any event, the Committee hopes that the discussion in this Report will assist clinical teachers in their ongoing re-examination of live-client, in-house clinical legal education as we enter the last decade of the twentieth century.

EXECUTIVE SUMMARY

The Committee on the Future of the In-House Clinic of the Association of American Law schools Section on clinical Legal Education was established in 1986 by then-Section Chair Professor Gary Palm to examine the state of in-house, live-client clinical legal education. The committee, originally co-chaired by Professors John Elson and Robert Dinerstein and currently chaired by Professor Dinerstein, has produced an extensive report, which is divided into the following sections:

I. PEDAGOGICAL GOALS OF IN-HOUSE, LIVE-CLIENT CLINICS

* In-house, live-client clinical legal education is a method of teaching in which students, under the supervision of a clinical faculty member, are among other things exposed to the kinds of legal problems that lawyers face in practice; confront such problems in the lawyer's role; interact with other participants in identifying and helping solve the client's legal problem; and receive intensive critical feedback on their lawyering performances from their faculty supervisor(s). A substantial portion of the student's work in the above domains is with real clients who face real legal problems.

* In-house, live-client clinical programs have at least nine (9) identifiable pedagogical goals:

1. Developing modes of planning and analysis for dealing with unstructured situations.
2. Providing professional skills instruction.
3. Teaching means of learning from experience.
4. Instructing students in professional responsibility.
5. Exposing students to the demands and methods of acting in role.
6. Providing opportunities for collaborative learning.
7. Imparting the obligation for service to indigent clients, information about how to engage in such representation, and knowledge concerning the impact of the legal system on poor people.
8. Providing the opportunity for examining the impact of doctrine in real life and providing a laboratory in which students and faculty study particular areas of the law.
9. Critiquing the capacities and limitations of lawyers and the legal system.

* The strength of in-house, live-client clinical programs is in their ability to integrate in one program many of the above

goals. Truly, the whole is greater than the sum of the parts. No other law school experience combines the extraordinarily varied and dramatic context of real cases and problems with the opportunity for intensive teaching, supervision, growth, and reflection.

II. FINAL REPORT OF THE DATA COLLECTION SUBCOMMITTEE

* The Data Collection Subcommittee conducted an extensive survey of clinical programs. It received responses from fifty-seven (57) law schools with in-house, live-client clinics and thirteen (13) from law schools with no such programs. The total of seventy (70) responses comprises 40% of the 175 ABA-accredited law schools surveyed. Among the Committee's key findings are the following:

1. Numbers of Students Served: On average, clinical programs can accommodate 30% of their law school student bodies. 36% of respondent clinics had room for less than 20% of the student body; only 27% report that they can accommodate 100% of their students (Section 2 of Subcommittee Report).

2. Clinic challenges: The critical challenges that clinical teachers identify as facing their programs are lack of support from non-clinical faculty and lack of funding (either no funding or unstable funding). To respond to these challenges, clinicians report that they have continued to try to influence non-clinical faculty and have sought outside funding for their activities (Section 3).

3. Clinic Infrastructure: Although clinicians are generally pleased with the level of administrative and teaching support they receive from their law schools, they are critical of the lack of adequate space for their programs. Clinicians also criticized the adequacy of litigation funds available for their programs (Section 4).

4. Clinic Successes: When asked to list their successes, clinicians emphasized their relationships with legal services and other practitioners, their success in integrating clinical faculty into the law school, and their teaching focus on student planning, self-evaluation and collaboration (Section 5).

5. Demand for Clinics: The data did not bear out previously-expressed concerns about the perceived decrease in student demand for live-client clinics. Demand for clinics appears to be climbing or, at the clinic schools tended to show stable demand, two-clinic schools showed decreased demand, and three or more-clinic schools experienced increased demand. The data also did not support the hypothesis that clinics in medium-sized cities would be most likely to show decreased demand (Section 6).

6. Clinical Faculty: Clinical faculty are highly qualified. The majority of schools require clinicians to meet the same hiring standards as non-clinical faculty, or meet the same standards

plus have some practice experience. At a majority of law schools, clinicians must meet the same standards for promotion as non-clinical faculty, though a number of schools make adjustments, typically in publication requirements, to take account of clinical workloads. Thirteen (13) schools reported that they had no clear promotion criteria for clinicians or that such criteria were under review (Section 7).

7. Clinical faculty: The average faculty size is 4.36 clinical teachers per respondent school, with 3.66 of these on hard money (i.e., law school-funded) and .7 on soft money (i.e., grant-funded). Not surprisingly, tenured clinical teachers in the survey averaged the most years in teaching (11), while non-tenured faculty on hard money (5) and clinical faculty on a combination of hard and soft money (4) or soft money alone (2) averaged considerably shorter periods of teaching longevity. Tenured clinicians average 10 months of teaching per year (compared to the normal academic schedule of 9 months), while non-tenured clinicians averaged 11 months. Tenured clinicians spend 64% of their time teaching in clinics, while non-tenured clinicians spend 89% (hard money) and 93% (soft money) (Section 7).

8. Faculty:student Ratio: 54% of the clinics have faculty:student ratios of between 1:8 and 1:10, with the probable average 1:8.41. Small schools appear to have higher ratios though the differences are not statistically significant (Section 7).

9. Faculty Status: While all tenured clinicians considered themselves to have equal faculty status with non-clinical faculty, only 22% of non-tenured, hard-money clinicians and no soft-money clinicians thought they enjoyed equal status. The Data Subcommittee computed average salaries for clinicians based on their years in legal education, but could not compare these salaries to ABA salary data for non-clinicians because the data categories were incompatible. In general, salary information was difficult to obtain and more work is needed in this area (Section 7).

10. ABA standard 405(e) : Most schools report that Standard 405 (e), which calls for law schools to provide clinicians with status and prerequisites reasonably similar to those afforded non-clinical faculty, has had no present effect on their schools. The perceived absence of effect is either because clinical faculty are already protected at their schools (30%) or because their schools have ignored the standard in some fashion (approximately 40%). Clinicians believe that in the future the Standard will either have a mildly positive effect or no effect at all (Section 8).

11. Student workload: 89% of clinical programs reported that they had a classroom component in their clinics; 65% use simulations. In those clinics with classroom components, clinic students appear to work an average of 5.11 hours per week for each credit hour, which is approximately one hour more per credit than non-clinic students work (Section 9).

10. Other Skills Courses: In addition to having trial advocacy

courses, a majority of schools report having courses in interviewing, counseling, negotiation and alternative dispute resolution. A large majority of schools with in-house clinics also offer externship programs (Section 10).

III. REPORT ON THE SUBCOMMITTEE ON THE CLINICAL TEACHER

* Law schools and their clinical programs must be concerned about the conditions under which their clinicians work in order to attract and retain qualified clinical teachers; provide clinical teachers with time for writing and other professional activities; serve students and clients better; and provide simple fairness to clinicians. Improved working conditions can serve to increase clinicians' job satisfaction. Clinical work is intense and demanding enough without clinicians having to work under inadequate conditions. Four key areas affecting clinicians' working conditions are:

1. Supervision: supervision of students handling real cases is both one of the most rewarding aspects of live-client clinical teaching and the portion of clinical work that makes the greatest demands on the clinician's time. The ideal faculty:student ratio and caseload per clinician will vary depending on the number and complexity of the clinic's cases, the nature of the clinician's non-supervisory duties, and the clinical program's articulated goals. Insofar as possible, clinics should avoid making caseload determinations based on the service needs imposed by outside funding sources. The intensity and difficulty of clinical case supervision create both problems and possibilities for clinicians interested in integrating themselves into the life of their law schools.

2. Classroom Teaching: Clinical teachers can play a significant role in other areas of the curriculum as well, such as teaching simulated "skills" courses, seminars, and large classes. These teaching opportunities can promote the intellectual growth of the clinical teacher so long as they do not come at the expense of the clinician's live-client work. The clinical perspective can enhance these non-clinical courses and contribute to the integration of clinical teachers into the non-clinical curriculum.

3. Faculty Status: Unequal faculty status continues to plague clinical teachers, many of whom still function with lesser job titles, lower pay, and a diminished role in the governance of their law schools. Even at schools where their status is equal, clinicians are often expected to work more months of the year than their non-clinical colleagues. Approaches to enhanced job security for clinicians vary from a unified tenure track to separate tenure track (with or without publication requirements) to long-term contracts. Insofar as law schools require their clinical faculty to produce scholarship in order to achieve job security, they must recognize the substantial demands on clinicians' time and devise solutions, such as research leaves and summers off, that will permit clinicians to produce scholarship. Law schools should also be open to definitions of scholarship that include some of the non-traditional subjects

and media that are a crucial part of clinical education.

4. Infrastructure: In addition to the matters discussed by the Data Collection Subcommittee, it is critical that law schools provide a supportive environment within which clinical teachers can work and thrive.

IV. GUIDELINES FOR IN-HOUSE, LIVE-CLIENT CLINICAL PROGRAMS

* The Committee has developed a series of Guidelines that represent a consensus of experienced clinical teachers as to the minimum common denominators of quality in house, live-client clinical programs. The Guidelines are designed to set out broad standards within which variation and experimentation are not only possible but desirable. The Guidelines stress the importance of clinical programs devising clear, articulated goals for the operation of their programs. Each Guideline is accompanied by commentary and references to the Data Collection Subcommittee's Report and to the AALS-ABA Guidelines for clinical Legal Education. The Guidelines are:

I. Written Program Objectives

An in-house, live-client clinical program (hereinafter, "clinical program") should formulate written learning goals or objectives to be used as criteria for evaluating and guiding the program.

II. Development of Models for Teaching, Supervision and Evaluation in the clinical Program

In devising an instructional program for students' work on real cases or matters, a clinical program should provide for the development and use of:

A. Systematic methods to teach students how to prepare for and perform competently all the steps necessary to provide their clients with competent representation;

B. One or more explicit instructional models for faculty supervision of students' work on cases; and

c. An articulated model for evaluating the quality of all phases of students' casework and for providing students with systematic and continuous feedback on their work in order both to identify areas for improvement and provide direction on how that improvement may be attained.

III. Faculty:student Ratio and Case Flow

A. A clinical program should have a faculty:student ratio and a supply of cases or matters that enables it to:

1. provide all students with casework or equivalent experiences that allow them to learn through testing their own capabilities in the performance of a variety of lawyering behaviors that are calculated to enhance professional competence;

2. provide all students with sufficient work to justify the amount of course credit given;

3. allow clinical faculty to devote sufficient time to the supervision and instruction of each student so that, to the extent feasible, the nature and amount of such supervision and instruction is related to the student's individual learning needs.

B. If the faculty:student ratio is higher than 1:10, the clinical program should indicate how it intends to accomplish the objectives set out in Guideline III. A. in light of the number of students for whom each clinical faculty member is responsible.

IV. Provision of Adequate Course Credit for Clinical Work

A clinical program should provide students with course credit that is commensurate to the credit given in the rest of the curriculum for comparable expenditures of student time.

V. The Clinic Seminar Component

Clinical programs should give serious consideration to offering a seminar or classroom component to complement their fieldwork programs.

VI. Clinical Faculty

A. A clinical program should have clinical faculty with the training, experience, and desire to satisfy these Guidelines.

B. A clinical program should seek to assure that its clinical faculty receive appropriate academic status.

C. A clinical program should attempt to foster an atmosphere in which its clinical faculty have an opportunity to grow professionally and intellectually.

D. A clinical program should provide clinical faculty with sufficient time to implement these Guidelines.

E. A clinical program should have some mechanism for training new clinicians in clinical pedagogy.

VII. Adequate Office Support

A clinical program should supply adequate office space and equipment, secretarial support, litigation costs, and legal and factual research resources to enable clinical faculty and students to provide clients with high-quality professional legal representation.

V. CHARTER FOR THE CLINICAL SECTION LEADERSHIP: RECOMMENDATIONS

The Committee makes a number of recommendations to the

leadership of the Section on Clinical Legal Education. Key components of these recommendations are:

1. The Section must be aware of AALS activities that affect in-house, live-client clinical programs and must seek to place clinicians on all AALS committees that affect clinical education.
2. The Section must develop a long-range plan for increasing funding of live-client clinical legal education from the federal government and other sources.
3. The Section must work closely with the AALS Professional Development Committee in order to be aware of AALS timetables for conference and workshop planning and to assist in generating ideas for these meetings.
4. The Section should establish a committee that will periodically monitor and report on the state of clinical legal education and conduct data-gathering surveys from time to time.
5. The Section should review ABA Accreditation standards that relate to professional skills training and the status of clinical teachers.
6. The Section should establish a committee to keep track of innovations in clinical programs and gather material that could be used for training clinicians.
7. The special Committee on the Future of the In-House Clinic should be made a standing committee of the Section, renamed the Committee on the In-House Clinic. That committee could perform some or all of the functions identified in recommendations 4 through 6.

Footnotes:

1 See Palm, Message from the Chair, AALS Section on Clinical Legal Education Newsletter 1-2 (April 1986). Among the many issues Palm identified were improved faculty status for clinical teachers; funding of clinical programs; clinician "burnout"; the nature of clinical scholarship; and the appropriate kinds of clinic cases and whether clinics should expand into non-litigation matters.

2 Id. at 1.

NOMINATING COMMITTEE

by Sue Bryant (CUNY), Chair

The nominating committee (Sue Bryant, Gary Palm, Kandis Scott, Peter Hoffman, Roy Stuckey, and Susan Kovac) has selected the following people for officers of the Section:

Chair-elect: Bob Dinerstein (American)

Executive Committee:

Steve Ellmann (Columbia)

Marjorie McDiarmid (West Virginia)

COMMITTEE ON OUTSIDE FUNDING

by Mary Wolf (Indiana-Indianapolis), Co-Chair

Barbara Harvey of the Department of Education informed us the DOE budget includes \$5,868,000 for the Law School Clinical Experience Program. It is anticipated the Department will award 49 renewal grants. These grants will average \$79,000. The deadline for renewal grants is December 18, 1990. Approximately 29 new grants will be awarded. The deadline for submitting new grant applications is January 18, 1991.

Charles Moses of the Legal Services Corporation hopes to have LSC grant applications available in January.

Anyone with ideas about funding for law school clinics is encouraged to attend our meeting in January. Time and place to be announced at the Clinic Section meeting.

OF INTEREST TO CLINICIANS

1991 CLINICAL SECTION WORKSHOP

May 2-4, 1991

Georgetown University Conference Center
Washington, DC

Issues of diversity and difference, racism, sexism, and discrimination based on gender preference pervade our society, our legal systems, and our law schools. Each day, clinical teachers and students are affected by these issues in our classes, our cases, and our supervision sessions. In order to confront and address these issues with our students, we must explore the effect of diversity and difference on our own views and teaching methods.

This workshop is designed to provide a safe arena for that exploration and an opportunity to develop methods of addressing these issues in the classroom and in supervision sessions in ways that respect the beliefs, feelings, and experiences of all our students, colleagues, and clients. Each workshop will examine the impact of stereotypes, personal and societal perceptions, and discrimination on a single skill typically undertaken by

students in the performance of a case. Thus, workshop participants will be exposed to the teaching of specific skills and have the opportunity to develop methods of addressing the special problems of diversity and difference within that context.

Topics include: Differences: Racism, Classism and Gender Issues; Simulation of Post-Supervisory Interview between Teacher and Student; Diversity and Tenure in the Clinical World; Simulation of Fact Investigation; Simulation of Persuasion; Other Issues of Diversity (Student to Student, Faculty to Faculty, Student to Faculty); Diversity Issues in the Classroom; The Reflective Practitioners (Decision-making in Various Contexts); ADR: Techniques, Protocols and Planning.

Confirmed Workshop Faculty Include: Kay Deaus, psychologist, CUNY; Peter Toll Hoffman, Nebraska; Michael Olivas, Houston; Nancy D. Polikoff, American; Nancy Rogers, Ohio State; Suellyn Scarnecchia, Michigan; Karen L. Tokarz, Washington Univ., St. Louis; and William Torbert, professor, School of Management, Boston College.

GEORGETOWN TO HOST RECEPTION AT AALS ANNUAL MEETING IN JANUARY

Georgetown University Law Center is hosting a reception for people attending the AALS annual meeting. The event will occur on January 3, 1991, beginning at 6:30. Buses from the hotel will be available. Dean Wally Mylniec invites all clinicians to visit the newly renovated law center and new library and to visit the clinic offices. The Clinics involved in civil cases are on the third floor and the Clinics involved in criminal cases are on the first floor.

GRANT READERS SOUGHT BY DOE

The assistant secretary for postsecondary education invites interested individuals to apply to serve as field readers to evaluate grant applications for the law school clinical experience program. Field readers are sought who have expertise in law enforcement and corrections; law, general, LLD or JD; legal education; clinical legal education; public affairs and services, others; and social work and helping services. The law school clinical experience program awards grants to accredited law schools to establish or expand programs of clinical experience for students in the practice of law.

Individuals interested in serving as field readers for the fiscal year 1991 (February 11-15, 1991) should mail their resumes, including their social security number, immediately to: Mrs. Edith T. Braxton, U.S. Department of Education, Program Support Branch, ROB-3, Room 3108A, 400 Maryland Avenue, S.W., Washington, DC 20202-5435. Telephone: 202/708-9434.

CONFERENCE SUGGESTIONS SOUGHT

David Barnhizer (Cleveland State), conference coordinator for a conference on The Justice Mission of American Law Faculty: Teaching, Scholarship, Advocacy, is seeking help from law faculty engaged in justice related courses, advocacy activities, and justice implicated scholarship to clarify the responsibility of American law faculty to pursue the realization of justice, including the rectification of injustice through their teaching, scholarship, or advocacy activities. The conference is dedicated to the memory of Robert B. McKay, who devoted his career to concerns of justice in American society and in so doing provided a model of commitment for many law faculty.

Those involved in planning the conference are attempting to design an interactive intellectual process that both transcends and challenges the warring camps that have arisen in law schools. Members of the steering committee, and others who have already responded, feel there is a compelling need to evaluate what we have already done, to understand the most important roles of law faculty, and to define more clearly the missions and directions law faculty and schools are taking.

Issues of conference emphasis, design, priority and the like have to this point been deliberately left up in the air. The steering committee is, therefore, seeking ideas, information, recommendations, examples of seminal scholarship, suggestions about curriculum reform, advocacy efforts, and models. The categories in which such information is sought include: (1) the best people in the categories identified; (2) examples of advocacy efforts that seek to advance conceptions of justice or redress perceived injustice; (3) first year curriculum experiments; (4) elective curriculum experiments; (5) traditional doctrinal course experiments; (6) clinical experiments; (7) simulation experiments; (8) new and innovative courses; (9) scholarship on volatile "Justice and Injustice" issues in traditional doctrinal subject matter areas; (10) scholarship concerning "practical" and distributive justice; (11) scholarship on feminism and gender discrimination; (12) scholarship on economics and justice; (13) scholarship on the justice roles of the judiciary; and (14) scholarship on racism.

For more information, or to make contributions, contact David Barnhizer at Cleveland State University College of Law, Cleveland, OH 44115; telephone: 216/687-2315; or FAX: 216-687-6881.

AALS APPROVES 1992 CLINICAL SUMMER CONFERENCE

The AALS has given its approval to a somewhat shortened (3-4 day) summer conference for 1992. Elliott Milstein (American) has agreed to chair the Planning Committee. The dates, place, and topics are all open for discussion.

AALS EXECUTIVE COMMITTEE ACTION

Karen Tokarz (Washington - St. Louis), liaison between the Section and the AALS Standing Committee on Clinical Education, reports that the AALS Executive Committee, at its November 1990 meeting, approved the recommendation made by the Professional Development Committee regarding the policy governing attendance at luncheons, dinners and receptions connected with professional development programs. This proposal arose out of the now "infamous" FEED ROY STUCKEY" affair at the Ann Arbor workshop last June. The revised policy now reads:

Attendance at luncheons, dinners and receptions ordinarily is limited to program participants, speakers, planning committee members, the AALS President, AALS President-Elect and the AALS staff. However, a Planning Committee may designate a particular meal or reception as a non-working session at which it would be appropriate to allow other guests. In that event, on a space available and first-come, first-served basis, guests of registrants may be allowed to attend. Guests at catered events will be charged an amount sufficient to cover the costs of their attendance. This includes the actual cost of the meal or reception and an appropriate amount reflecting any additional expenses of that event, such as the costs of a speaker.

The AALS Executive Committee deferred action on the Standing Committee's recommendation that registration fees for clinical workshops and conferences be reduced either by providing full or partial scholarships or across-the-board reductions based on predicted attendance. The proposal was referred to the Professional Development Committee for consideration at its fall 1991 meeting, inasmuch as it was already scheduled to take up general questions of attendance at and costs and fees for AALS professional development programs.

MICHAEL L. PERLIN APPOINTED TO BOARD OF IALMH

Michael Perlin (New York Law School) has been named to the Board of Directors of the International Academy of Law and Mental Health. During October he spoke at the American Academy of Psychiatry and Law on "Morality and Pretextuality, Psychiatry and Law: Of 'Ordinary Common Sense,' Heuristic Reasoning, and Cognitive Dissonance."

NEW BOOK IS FIRST COMPREHENSIVE GUIDE TO OBTAINING AIDS BENEFITS

Yale University Press has published *THE AIDS BENEFITS HANDBOOK: Everything You Need to Know to Get Social Security, Welfare, Medicaid, Medicare, Food Stamps, Housing, Drugs, and Other Benefits*, by Thomas P. McCormack. The book is a comprehensive step-by-step guide to obtaining social

welfare benefits for persons with AIDS and ARC. Thomas P. McCormack has worked for nearly twenty years in public benefits eligibility in a variety of positions that range from on-line caseworker to federal policymaker. He was a Washington reporter for the CCH Health and Welfare publications and has served for five years as an entitlements advocate at the Whitman-Walker Clinic in Washington, DC. *THE AIDS BENEFITS HANDBOOK* grew out of training materials prepared by the author for fellow PWA entitlements advocates at the Whitman-Walker Clinic, a PWA health and social service organization.

The book is short on statutory and regulatory references that limits its usefulness to attorneys, but it may be useful for students in AIDS Clinics or in other entitlements clinics to gain a broad overview of entitlement programs and their requirements. It is available in cloth (\$25.) or paper (\$8.95) from Yale University Press.

TIME TO RENEW YOUR CLINICAL SECTION MEMBERSHIP

By now you should have received a membership card from Nicki Russler, Chair of the Membership Committee, to fill out and send back with your check for \$15 for 1991 dues in the AALS Section on Clinical Legal Education. If you did not receive a card, check with Nicki at the Annual Meeting or contact her at Tennessee.

SCHOLARLY PAPER TO BE PRESENTED AT SECTION MEETING

The scholarly paper by Phyllis Goldfarb (Boston College) abstracted here will be presented and discussed from 2:00 to 3:30 p.m. on January 3, 1991, at a session of the Clinical Section Workshop at the AALS Annual Meeting in Washington, D.C.

ABSTRACT

While teaching a criminal clinic and a feminist jurisprudence class simultaneously, I discovered a surprising resemblance in the methods espoused by clinical educators and by feminists, a resemblance derived from each group's views of the close feedback relationship between theory and practice. This article examines the relationship between legal theory and legal practice from the standpoint of these two recent intellectual movements within the legal academy. Although clinical education is often thought of as a practical movement within legal education and feminist jurisprudence as a theoretical movement, the paper demonstrates the fundamental methodological similarity of the two movements, and hence the problematic nature of the theory-practice label. Ironically, the methodological similarity of the two movements is found in their respective challenges to the theory-practice dichotomy.

My contention is that both clinical education and feminist theory accord great authority to experience and insist, for somewhat different reasons, on a process of practical, contextual

reasoning, on grounding theory in experience and testing theory against experience. I also content that the movements are alike in their attention to affect, interpersonal dynamics, collaboration, interdisciplinary inquiry, and critique. I claim that these methodological choices are rooted in moral concerns, engender moral consequences, and recommend a number of reforms of traditional modes of lawyering and judging. Indeed I assert that feminist methods and clinical methods can both be understood as a species of activist moral philosophy.

I begin the article by reading *Antigone* from the perspective of each movement, demonstrating the similarity in otherwise disparate readings by describing the point at which the readings converge; in experiences, like *Antigone's*, to generate insights and the power of these insights to generate practical lessons for future conduct. Next I seek to explain the arrival of clinicians and feminists at the same location for viewing such experiences. This explanation is based on the marginalized status of each in and beyond the world of law school and the special kinds of perspectives that marginality affords.

Following the readings and interpretations of *Antigone*, I catalogue the methods that each movement has adopted, methods that sound different but that actually can be found to share certain fundamental features. Feminist methods involve consciousness-raising, storytelling, the woman (exclusion) question, practical reasoning, and epistemological and ethical questions, each of which I describe. I also describe the clinical methods of learning from experience, synthesis, critique, and responsibility. This is followed by a section which surveys the resemblances between these two sets of methods.

Given the inherent methodological similarity of these two independent movements, I urge the enrichment of each through explicit attention to, and borrowing from, the other. I try to specify some of the benefits for clinical education and for feminism and of this deliberate interchange. I also claim that the methods of feminism and clinical education offer lessons adaptable to the traditional law school classroom, and capable of enlivening and enriching the classroom environment.

PUBLICATIONS BY CLINICIANS

Anker, Deborah E. (Harvard), "Determining Asylum Claims in the United States - Summary Report of an Empirical Study of the Adjudication of Asylum Claims before the Immigration Court." 2 *Intn'l J. Refugee Law* 250 (1990).

Binder, David (UCLA), **Bergman, Paul** (UCLA), and Price, **Lawyers as Counselors: A Client-Centered Approach** (West Pub. Co. 1990).

Dinerstein, Robert (American), "Client-Centered Counseling: Reappraisal and Refinement." 32 *Ariz. L. Rev.* 501 (1990).

Pecora, Anne K. (Baltimore), "The Constitutional Right to

Court-Appointed Adversary Counsel for Defendants in Guardianship Proceedings." 43 *Ark. L. Rev.* (1990).

Perlin, Michael L. (New York Law School), "Psychodynamics and the Insanity Defense: 'Ordinary Common Sense' and Heuristic Reasoning." 69 *Neb. L. Rev.* 3 (1990).

Peters, Jean Koh (Yale), "Schall v. Martin and the Transformation of Judicial Precedent." 31 *Boston Col. L. Rev.* 641 (1990).

Peters, Jean Koh, "Jose and Sarah's Story: The Usefulness of Roleplay in an Ethically-Based Evaluation of the Present and Future Family Court. (Recommendations from Families in Court: A National Symposium). 4 *Pacific L. J.* 897 (1990).

Stuckey, Roy T. (South Carolina), "Preparing Lawyers for Law Practice: New Roles for the NCBE and the ABA." 59 *The Bar Examiner* 12 (1990).

Zorn, Stephen (CUNY), "Lost Innocence: the Tax Court and I.R.C. §6013(e)." *Tax Notes* (Aug. 27, 1990).

[Editor's note: Please send me the complete citation for your publications and those of your clinical colleagues for inclusion in this space. Please wait until the piece has been published so that the journal volume number and page numbers are available. Please type the information, if possible, so that I don't misspell your name or the title of your publication because I misread your handwriting.]

JOBS

The Columbus School of Law of The Catholic University of America (CUA) expects to fill the position of Clinical Coordinator in the 1991-92 academic year. This is a tenure track position divided between classroom teaching and coordination of CUA's nine clinical programs, including an extensive off-campus externship program. Classroom teaching assignments would be decided on the mutual interest of the law school and faculty member. Clinical responsibilities include student counseling about clinical program choice, coordination of annual Clinics Day providing information on offerings, curriculum development and monitoring, and substantive responsibility in one or more of CUA's external clinical offerings. Scholarly productivity is a requirement of promotion and tenure. Those interested should write to Prof. Leroy Clark, Columbus School of Law, The Catholic University of America, Washington, DC 20064 by January 1, 1991. CUA is an equal opportunity employer. It is sponsored by the Roman Catholic bishops of the United States as a national university and center of instruction and research. Its faculties are composed of teachers from diverse backgrounds and religious traditions, but faculty members are expected to respect the religious commitment and mission of the University and to be supportive of its aims and ideals.

City Polytechnic of Hong Kong. Neil Gold and his colleagues at City Polytechnic of Hong Kong are seeking to recruit staff members to join a team at a centre for Professional Legal Education in Hong Kong. They are looking for individuals with some experience in skills teaching and curriculum development. Staff recruited in the next 12 months could expect to have a significant input into the development of the new programme to meet the perceived deficiencies in practice abilities amongst trainees and newly qualified practitioners. The programme is scheduled to begin in October 1991. The team is also working on a parallel research project on exemplary practice in law. Appointments are available on all lecturing scales. Usually contracts are for two years but they would be interested in hearing from anyone who feels that they could make a contribution to the development and delivery of the new programme. Salaries, benefits and housing are on average better than those available outside Hong Kong. For more information see the October 1990 issue of the *Newsletter* -p. 14, or contact Neil Gold, Professional Legal Education, Department of Law, City Polytechnic of Hong Kong, Tat Chee Avenue, Kowloon, Hong Kong; telephone: 852-788-7654; FAX: 852-788-7530; BITNET (Neil Gold) in %"LWNEIL@CPHKVX.BITNET".

The University of Georgia School of Law announces that the position of Director of the Legal Aid and Defender Clinic will be vacant on July 1, 1991. The Clinic — which is one of three at the Law School — has been an important component of the educational program since 1966. It currently handles all indigent criminal defense matters in the two county judicial circuit in which the Law School is located. The program is funded by the state, the two counties, the City of Athens, Georgia, and the University.

The Clinic has six staff attorneys and three secretaries. Approximately 45 second and third year law students work in the program each semester and receive from two to six hours of academic credit per semester. The annual workload of the Clinic is 3,000 cases, approximately 850 of which are felony. The Clinic also provides defense representation in capital cases.

The Director of the Clinic has responsibility for the management of the program including preparation of an annual budget for review and approval by the outside funding agencies. There is an expectation that the Director would be active in the trial of criminal cases to provide leadership to the staff attorneys in the Clinic and to serve as a professional example to law students. Beyond this, the Director would be expected to teach a section of Trial Practice each semester. Other teaching and academic duties would depend upon the time available and the candidate's interest. A strong law school record and significant trial experience are required.

The salary range contemplated for this position is \$60,000. By mutual agreement of the candidate and the Law School, the position of Director can be a tenure track position. The Law School would prefer candidates willing to make such an election, but does not insist on it as a prerequisite to being considered or hired.

If interested, please send a resume to Professor Ellen Jordan, Chairman of the Recruitment Committee, University of Georgia School of Law, Athens, Georgia 30602. If you have any questions about the operation of the Clinic, contact Professor Al Pearson, the outgoing Director, at (404) 542-4241. The search for candidates will close on January 15, 1991.

All employers listed here are affirmative action/equal opportunity employers; women and minorities are especially encouraged to apply for these positions.