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Clinical Legal Education Gets High Marks

Legal aid clinics are valuable but has lack of funding put programs in jeopardy?

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Law schools nationwide and abroad have long recognized the importance of clinical legal education. Recent cuts in federal funding for clinical legal education have left law schools all over the country scrambling to try and fill the gap. The clinical program at the University of Idaho College of Law faces internal reorganization in order to continue providing an educationally sound program. This article describes Idaho's clinical programs and reports on the results of a recent survey of our clinic alumni. The survey came about as a response to the funding concerns affecting the operation of the clinic. It asked for comments regarding issues such as whether the clinic experience had influenced the professional lives of our alumni, and what skills they began to develop in clinic. The results are being used as a springboard in planning for the clinic's future.

Since 1975, the University of Idaho College of Law has endeavored to provide law students with an opportunity to gain legal experience through an education-based clinical program. As part of this program, which has developed into the Legal Aid Clinic, students practice law with a limited license under the supervision and guidance of the clinical faculty.

The University of Idaho Legal Aid Clinic

The Legal Aid Clinic at the University of Idaho is essentially a law firm operating within the College of Law. By 1994, clinic students could elect to specialize in one of four clinical components: the General Civil and Criminal Clinic; the Native American Public Defender Clinic; the Appellate Clinic; or the Idaho Indian Justice Clinic. Unfortunately, the Idaho Indian Justice Clinic ceased to be offered in fall 1996 due to the loss of federal funds.

- **General Civil and Criminal Clinic**

Students in the General Clinic represent individual clients in a variety of cases — domestic (child custody, divorce, adoption), consumer and landlord-tenant, misdemeanor criminal (such as battery and drunk driving), wills (including probate after the death of a testator), and small business start-ups. The clinic also handles incorporation and other matters for charitable and other non-profit groups. Students handle the cases from initial interviews through closing the case, although some lengthier cases are passed from outgoing to incoming interns. The General



College of Law Clinical Programs A+

Clinic attempts to balance work on small, self-contained cases with more complex cases, and there are generally only one or two large cases ongoing at a time. Supervisors provide guidance in matters ranging from client control to decisions affecting the types and numbers of active cases.

- **Native American Public Defender Clinic**

Native American Public Defender Clinic students travel to the Nez Perce Indian Reservation and serve as public defenders in criminal cases. The jurisdiction of tribal courts is limited by federal statute to crimes punishable by one year or less of imprisonment, the equivalent of misdemeanors in most state and federal courts. The law applied, however, is Tribal law.

The aim of this clinic is to accommodate students who desire intensive experience preparing and trying criminal cases. It further provides a first-hand experience in comparative law, sensitizing students to ways of legal thinking not prevalent in state and federal courts.

- **Appellate Clinic**

Since 1990, the clinic has handled appellate cases. The current sources of appellate cases are federal *pro se* cases referred by the Ninth Circuit, appellate cases from public defender and other organizations in Idaho, including referrals from other attorneys, and appeals from the clinic's general civil and criminal cases.

The Appellate Clinic allows interested students to work intensively on one or two complex cases, requiring in-depth understanding of an area of law and the public policy issues surrounding it. Students handling appellate cases work individually or in pairs, depending on the complexity of the case, the time frame, and the abilities of the students. With appropriate screening and assignment, the nature of the appellate cases generally allows students to take at least one case through briefing and oral argument during their two semesters in clinic.

- **Idaho Indian Justice Project**

In 1994 and 1995, Idaho Legal Aid Services obtained competitive grants from the Legal Services Corporation to establish

a civil legal clinic with the University of Idaho College of Law. As part of the Indian Justice Clinic, students appeared in both the Coeur d'Alene and Nez Perce Tribal Courts as well as in state court, representing over 100 tribal members. Cases included domestic relations, juvenile delinquency, consumer rights, water rights, health care, taxation, housing, property rights, and guardianship.

The Indian Justice Clinic organized the Nez Perce Peacemaker Project in 1995. This project offers tribal members an alternative to litigation which combines Native American tradition with mediation. The Peacemaker Project trains law students and tribal members to co-mediate disputes referred by tribal court. The Nez Perce Tribal Code includes provisions for mediation of civil disputes and certification of tribal mediators. The project seeks to incorporate elements of traditional tribal dispute resolution into the mediation process. Despite the lack of funding, the Legal Aid Clinic, Idaho Legal Services, and the University of Idaho's Martin Institute for Peace Studies and Conflict Resolution continue to operate this project and are in the process of helping to create the Nez Perce Peacemaker Association, which would oversee the program in the future.

Past Performance and Future Directions

Throughout its history, the goal of the Legal Aid Clinic has been twofold—first to allow students to gain valuable practical experience as practicing lawyers, held to the high ethical standards of the profession, and secondly to provide legal services to members of the Idaho population that might otherwise remain unrepresented. Cuts in federal monies available for such programs has jeopardized these goals.

Consequently, clinical legal education now faces a funding crisis, both nationally and at the University of Idaho College of Law. The college lost approximately \$150,000 in federal monies for its clinical programs in spring 1996. The loss of funding, combined with changes within the College of Law, prompted an evaluation of the clinic for the purpose of making recommendations on staffing and programs.

As part of the evaluation process, in February 1996, the Legal Aid Clinic mailed a cover letter, a description of the current clinical programs, and a survey to four hundred University of Idaho College of Law alumni who participated in the Legal Aid Clinic Program between 1975 and 1995. One hundred and ten alumni responded. The goal of the survey was to let alumni know what the clinic was doing and to solicit feedback on the clinical programs. The survey requested information on how the clinic experience affected their professional lives and asked them to use their insights to further assist in planning improvements in the clinic.

The survey covered a wide range of topics such as ethics, employment, personal and professional confidence, Trial Advocacy Training Week, and areas of teaching where the law school and clinical program can improve. Some questions asked for categorical answers, such as "agree" or "disagree." All categorical questions were followed by a request for explanation. Other questions sought more in depth, written answers. The

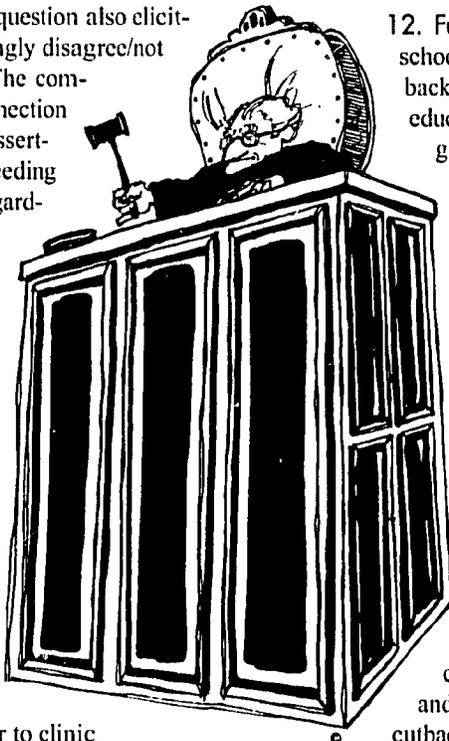
University of Idaho Social Survey Research Unit staff analyzed the responses to the questions that required a categorical answer, and we prepared a forty-nine page report summarizing the responses.¹ Some of the conclusions and recommendations are as follows:

"The value of the clinic experience is not so much the subsequent engagement of pro bono activity, but the exposure to the 'under privileged' that leads to understanding and a desire to make the profession work fairly."

1. **Alumni Relations:** The majority of the former students spoke highly of their clinical experience and many took the opportunity to not only answer the survey questions but to write personal notes to the clinical faculty and staff. The law school and the clinic need to develop a better system of keeping in touch with the alumni. One suggestion is that the clinic publish a yearly newsletter which highlights the clinical faculty and students' accomplishments. This year the clinic hopes to use the alumni newsletter, the *Obiter Dictum*, for this purpose.
2. **Clinical Programs:** 92% of the respondents said that clinic made them more qualified to practice law. The clinical programs help "bridge the gap" between law school and practice. Clinic gives students the opportunity to apply legal concepts and to explore a variety of areas of practice before graduation. It serves as a "jump-start" on practice. Some wished that clinic would be mandatory for all students; others liked the voluntary nature of clinic, but thought that trial advocacy and clinic should be available to more students.
3. **Skills:** Clinic serves as an introduction to many of the fundamental skills identified in the ABA's 1992 MacCrate Report. As one former student wrote, "It was a great start." ADR was the skill least developed in clinic. This makes sense since the clinic has not had a full fledged ADR component, and any clinical ADR experience has been the result of faculty and student interest. Clinic does teach collaboration and team work.
4. **Confidence:** 95% of the respondents believed that clinic increased their level of professional and personal confidence. Many of our graduates become solo practitioners or join firms with one or two other people. Their experiences in clinic made them better able to start into practice after graduation. A couple of the most heartening comments included: "Clinic made me feel empowered," and "My law school grades were below par, and left my confidence lacking. Through the clinic, I realized that I did indeed have a grasp of the subject matter, and a true knack for the functional abilities required of a trial lawyer. I view the clinic as the most positive turning point of my life."
5. **Pro Bono Work:** This question generated the most contro-

versy and reflects the most diverse responses. 58% of the respondents marked that they strongly agreed or agreed that students who take clinic are more likely to engage in pro bono work later in their careers than those who do not. 13% disagreed or strongly disagreed with this assertion. It is unclear whether clinic itself engenders a stronger commitment to pro bono work or whether people who take clinic are naturally inclined to engage in pro bono activity. One answer challenged the question's basic premise, "The value of the clinic experience is not so much the subsequent engagement of pro bono activity, but the exposure to the 'under privileged' that leads to understanding and a desire to make the profession work fairly." This question also elicited more comments in the disagree/strongly disagree/not applicable category than any other. The comments varied from not seeing a connection between pro bono work and clinic to asserting that "left-wing liberal types" or "bleeding heart liberals" will do pro bono work regardless of their participation in clinic.

6. **Professional Standards:** 87 % of the respondents believed that the clinical faculty communicated the lawyer's responsibility to the community and the obligation to practice according to the highest ethical standards. For most of the respondents, the faculty served as a role models and set high ethical standards.
7. **Employment:** Although clinic is not designed to serve as a placement office, 53% of the respondents stated that their clinical experience assisted them in finding employment. 21% disagreed or strongly disagreed. Some of the 21% already had jobs prior to clinic while others had clinic on their resume but their prospective employer never asked about it.
8. **Skills Training:** Suggestions arose in this area, including:
 - The clinic should explore ways to increase the number of trials.
 - The law school should teach law office management, possibly as a weekend seminar.
 - Some suggested that clinic be mandatory for all students; others advocated that clinic and trial advocacy training be available to more students.
 - One student wished that the supervisor's feedback had been more positive.
9. **Ways of Learning:** The respondents learned best from hands on experiences and consultation with supervisors. They learned the most from doing real legal work, i.e. appearing in court, meeting with clients, etc. The weekly clinic meetings were cited as the least helpful. Clinical faculty need to reassess how the weekly meetings are conducted.
10. **Supervision:** Most of the respondents were extremely happy with the level of supervision and their supervisors. Only a



couple of the responses were negative, which is commendable in light of the number of responses. Those who were dissatisfied generally had a negative interaction with the supervising attorney, i.e. did not get the grade one expected or hoped for, did not receive adequate supervision, the feedback could have been more positive, etc.

11. **Trial Advocacy:** Trial advocacy received almost universal applause. Some wish it had been longer and less rushed. The program is structured in the week long format in order to best simulate a real trial setting with all the time pressures. The course is offered the week before regular fall classes begin.

12. **Funding:** Overall the survey provides the law school and the Legal Aid Clinic important feedback and reinforces the valuable role of clinical education at a time when funding for such programs is in jeopardy. Although the survey does not directly address the issue of funding, the responses resoundingly support and affirm our clinical programs. This is important feedback at a time when one of the college's major challenges is to secure continued funding for its clinic. The federal government has historically subsidized law school clinics. However, federal aid is no longer available. In 1996 the Legal Aid Clinic lost approximately \$150,000 in federal support. As a result of the federal cutbacks, it no longer offers the Indian Justice Clinic. The college secured funding for the Appellate clinic for academic year 1996-97. The survey helps demonstrate the value of the clinical programs and the need for continued and permanent funding in light of the federal cutbacks. The lack of secure funding puts all of the programs in jeopardy. The survey results also provides data which will assist in restructuring the clinic should that become necessary.

The College of Law appreciates all the alumni who took the time to respond to the survey. In compiling the report, every effort was made to accurately reflect all points of view. Although the clinic basks in the positive comments of those students who remember it as the most positive aspect of their legal education, it is seriously evaluating the negative comments with an eye toward improvement. It is only through such an evaluation process that the Legal Aid Clinic can make the changes necessary to continue offering an educationally sound clinical program to the law students of the University of Idaho. ■

Endnotes

¹A copy of the report is available upon request.