

## Message from the Dean



Dean Helstad

### CLINICAL INSTRUCTION AT THE UW LAW SCHOOL UNDER REVIEW

The changes in Law School curricula and teaching methods which occur over the years can best be characterized as gradual. Those of you who graduated 10, 25 or even 40 years ago probably would feel reasonably at home in many Law School classes today. Casebooks are still used, although there is much greater emphasis than in the past on statutory and other supplementary materials. There is less emphasis on the Socratic method, although most law teachers still do not hesitate to engage students in probing discussions and analyses of difficult legal points. There is one change, however, which has occurred largely within the past ten years. That is the type of instruction which has come to be known in a general way as clinical instruction or clinical programs.

Because of the newness of this form of instruction in legal education, it is not surprising that the past ten years to some extent has been a period of trial, re-evaluation and modification. Clinical instruction at the University of Wisconsin Law School has been undergoing one of these reassessments during the past year.

About a year ago I appointed an ad hoc committee on clinical programs. That committee now has reported its recommendations to the faculty and its recommendations have been approved in principle by the faculty. The committee now is in the process of drafting implementing rules or guidelines to be submitted to the faculty for approval or modification later this spring. Although

the committee made a number of recommendations to improve clinical instruction at the University of Wisconsin Law School, its basic recommendation was that only those programs which can be categorized as class A programs should be continued after this academic year. It described class A programs as "those programs that are faculty planned and controlled in which the faculty member devotes a substantial amount of time to supervision and for which the faculty member receives teaching credit." It placed other programs in class B which encompasses "those programs in which faculty supervision is not substantial enough to insure, in the judgment of the committee, that the student receives a quality learning experience and for which the faculty member does not receive teaching credit." The committee went on to define clinical programs as "faculty supervised student law practice for which the student receives Law School credit and in which the needs of a client or someone in a position similar to a client determine to a significant degree the student's activities."

It is clear that the committee was focusing on a problem which seems to be inherent in all clinical type instruction, that is, the tension between the educational and service components. The committee felt that the only way to assure the dominance of the educational element is to place the programs largely under the control of faculty members. The committee was quick to note that there are programs in which faculty control is not a strong element which nevertheless have provided excellent educational experiences for students. The committee went on to note, however, that "the quality of those programs was directly related to either the willingness of the faculty mem-

bers to invest substantial amounts of their own time above and beyond their regular responsibilities or the availability of a practitioner who had both the ability and the time to provide the student with a rich learning experience. Often, even within a single program, it was apparent that there was great variation in the degree to which these conditions were met. This created a situation in which the quality of the educational experience was largely a matter of chance."

Clinical instruction at the University of Wisconsin Law School, as at most other law schools, received its impetus from financial grants provided by the Council on Legal Education for Professional Responsibility (CLEPR). Clinical instruction for credit was launched at this Law School in 1969 under a grant from CLEPR. The initial program had two distinct parts. One provided for placement of students in operating agencies during the academic year with the understanding that each student would earn up to five credits per semester for the work done in the placement and in a related seminar. The other was a summer internship program under which students were given financial stipends to enable them to work in selected operating agencies but were not given academic credit.

The experience of the Law School in placement of students in work settings for the summer months actually pre-dates the program initiated in 1969 with the CLEPR grant. It began in 1964 with a correctional internship program initiated by Professor Frank Remington and financed by the National Council on Legal Clinics. In 1965 a large-scale program for internships in police departments was initiated under the direction of Professor Herman Goldstein with funds from the Ford Founda-

tion. In the summers of 1967 and 1968 the Council on Legal Education for Professional Responsibility financed student placements in welfare departments and offices of family court commissioners under the supervision of Professors Foster and Melli. Thus, there had been considerable, and successful, experience with summer clinical placements prior to the launching of the academic year program in 1969. None of these summer programs carried any academic credit. Rather, they were intended to replace the more traditional summer jobs in which students might work in law offices and to provide broadening experiences of a kind that students would not likely have as lawyers.

The initial academic year clinical program, with placements mostly in legal service agencies, was not entirely successful as a teaching device. Nevertheless, a faculty committee which had been created to review the experience with the early clinical programs reported in the fall of 1971 that, despite some difficulties and problems, the programs should be continued at least temporarily. The committee recommended further that the goals of clinical programs be carefully examined and defined as well as the goals of legal education generally. Pending the outcome of a study of goals, the committee recommended that "if we are to continue the (clinical) program at all, we should commit some of our limited resources in order to increase the faculty participation. In 1970-71 almost all of the faculty involved in the clinical

program carried that program in addition to full-time Law School duties." The committee went on to recommend that no placements for academic credit should be made except under supervision of a participating faculty member who is interested both in the area of substantive law concerned and in the use of the clinical device as a teaching technique.

Despite the doubts raised by the 1971 faculty committee, clinical programs have continued and have generally prospered at our law school during the past five years. A number of these programs have become quite well established with very substantial faculty involvement. These include particularly the Legal Assistance to Inmates Program, the program at the Center for Public Representation and the Ordinance Defense program. Roughly 90 to 100 students have participated in clinical programs each semester during the past two or three years. The following are some of the programs in which students were enrolled for credit:

1. Legal Assistance to Inmates and Mental Health Patients. Law students provide counseling and other legal services to inmates and mental patients. Twenty-five to 30 students have enrolled each semester.

2. Center for Public Representation. Ten to 20 students have enrolled each semester to participate in a variety of programs involving mostly representation before state administrative agencies.

3. Ordinance Defense Program. Ten to 15 students have enrolled each semester to serve as attorneys for persons prosecuted for misdemeanor violations under Dane County ordinances.

4. Federal clerkships. Seven or eight students have enrolled each semester to serve as part-time clerks for judges.

5. Department of Justice. Three or four students have enrolled each semester to serve as interns with the Consumer Protection Division of the State Department of Justice.

6. Labor Law internships. Six to eight students have enrolled each semester to serve as interns with the Milwaukee office of the National Labor Relations Board or the Wisconsin Employment Relations Commission.

7. State Public Defender's Office. Up to ten students have enrolled each semester to serve as interns in the Public Defender's Office.

8. Miscellaneous programs.

Among other offices in which law students have served as interns recently are the State Department of Agriculture, Milwaukee Legal Services, Governor's Commission on Status of Women, Office of the Commissioner of Securities and the Office of the U.S. Attorneys in the Eastern and Western Districts of Wisconsin.

So far I fear I have emphasized the problems which clinical-type instruction poses. On the positive side, there is no doubt that a well-run clinical program can be a very effective means of legal education. Mr. William Pincus, President of the Council on Legal Education for Professional Responsibility, has summarized the advantages of clinical instruction as follows:

1. It provides opportunity for training in skills such as fact gathering, interviewing, counseling, drafting, trial strategy and trial and appellate advocacy.

2. It provides opportunity for the law student to make a transition in the professional school from theory to practice, and it does this under educational auspices which expose him to a standard of performance which can serve as an example for his future professional life.

3. It develops the emotional part of the person which grows only when the person has experience with responsibility and enjoys or suffers the consequences of his actions in a complexity of human relationships which go beyond teacher and student.

4. It re-humanizes the educational process and reminds the professional-to-be that his services are personal services in the literal sense of the word and that a primary part of professional responsibility is the capacity to respond on a one-to-one basis to another human being's need for help.

5. It can give lasting lessons in ethics and morality by requiring the student to resolve ethical and moral dilemmas through action.

Most of these benefits are conferred by our better programs. The challenge which the faculty presently faces is to adopt workable guidelines which will eliminate the programs which do not provide reasonable assurance of living up to these high educational standards without eliminating

those that do. So far, the only programs which have been definitely tagged as meeting the new guidelines are the Legal Assistance to Inmates, Center for Public Representation and Ordinance Defense programs. Some others no doubt will be brought into conformity.

A second challenge involves allocation of resources. The high-quality programs demand a student-faculty ratio which is almost the equivalent of a tutorial situation. This obviously poses a question of what portion of limited educational resources should be devoted to this type of training as compared with other forms of instruction.

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Dean

## PROGRESS IN THE FUND DRIVE

Detailed Report Due in June

A larger number of alumni contributors, and a larger amount of alumni contributions have marked the 1977 Alumni Fund campaign, which ends on April 1. Six hundred ninety-two alumni had made contributions by February 1, 1977, compared to six hundred sixty-five in all of last year's drive. On February 1, total contributions to WLAA—from all sources, both alumni and non-alumni, exceeded the last drive's year-end total by almost 15%. Contributions to the University of Wisconsin Foundation earmarked for the Law School have grown substantially.