University of Pennsylvania
Law Review
FOUNDED 1852

Formerly
American Law Register

VOLUME 127 NOVEMBER 1978 No. 1

ESSAY

SCENES FROM A CLINIC

MICHAEL MELTSNER †
PHILIP G. SCHRAG ††

The authors direct a program of clinical legal education at Columbia University, where they have taught for the past seven years. In this essay they describe a law school clinic in which students are able to examine carefully their goals, a variety of learning techniques that may be useful to them in the future, and the personal and group relationships they encounter as professionals.

For five years, we experimented with several different forms of clinical legal education: a test-case clinic in which students participated, with us, in complex federal litigation; a semester-long simulation of a lawsuit, in which two classes of students squared off against each other; a clinic housed in a legal aid office in a low-income neighborhood.[1] In 1976, we felt ready to apply the experience that we had obtained to yet another form of clinic—a legal

† Professor of Law, Columbia University; Dean-Designate, Northeastern University School of Law. A.B. 1957, Oberlin College; LL.B. 1960, Yale University. The financial support of the John Simon Guggenheim Foundation during the period in which this article was prepared is gratefully acknowledged.

†† Professor of Law, Columbia University. A.B. 1964, Harvard University; LL.B. 1967, Yale University.

[1] We have described those first five years, and our own evolution as clinical law teachers, in Meltsner & Schrag, *Report from a CLEPR Colony*, 76 COLUM. L. REV. 581 (1976) [hereinafter cited as *Report*]. This article is, in some senses, a sequel to that one, covering the period of our work from January 1976 until the fall of 1977, when both of us began leaves of absence.

services office on the campus of Columbia University, in which we and a colleague [2] sought to take two educational principles as far as they could usefully go in the context of legal education. The first, learning from direct experience with the lawyering process, is common to all clinical education; the second, student responsibility for student learning,[3] is rarely employed in law school to the extent we determined to apply it. We therefore founded the Morningside Heights Legal Services Corporation (MHLS) as a place where law students could represent clients just as they would when licensed as lawyers; but they could also, if they wished, use the enormous number of resources available to help them examine minutely every aspect of their activity and, more importantly, to learn how to facilitate a continuing examination of their work after leaving our institution.

This article distorts our experience at MHLS in several respects. First, we have chosen here to focus attention on the structural, inter-personal, and group-related aspects of a clinic, and to de-emphasize the critical, but more familiar, encounters between students and their clients. Second, we under-report the learning that took place regarding bureaucratic processes. MHLS accumulated a wealth of data illuminating previously invisible behavioral patterns of the government agencies with which it dealt on a daily basis. As a result, we were able to intervene on an institutional basis as well as in individual cases to attempt to alter agency rules and practice. Although changing unwise and illegal agency policy was a prominent "political" objective of MHLS, our efforts at law reform are alluded to only tangentially in this essay; instead, we have chosen to concentrate on the clinic as a learning environment. Third, this description of what we have done may be read by some as a model, a result which we would regard as unfortunate. The only prescription intended is the virtue of working in a framework in which participants are committed to hearing the message of their behavior, their mental and emotional processes, and their values; and to adapting accordingly.[4]

---

[2] Our colleague, Holly Hartstone, played a central role in formulating and implementing the institutional goals of the clinic. We regret that other commitments kept her from sharing authorship of this article, but we are indebted to her for reading the manuscript and for sharing so freely over the years her exceptional understanding of the ways in which lawyers work and learn. We also wish to thank the many Columbia law students, too numerous to identify by name, whose insights and dedication encouraged us to attempt a description of the life of our clinic.

[3] One of the forces that jarred us loose from traditional thinking in this regard was Carl Rogers. *See, e.g.*, C. ROGERS, ON BECOMING A PERSON 297-313 (1961).

[4] The learning theory informing our approach may be found in W. TORBERT, LEARNING FROM EXPERIENCE (1972). Common assumptions of legal education that

In designing the new clinic, we enjoyed a few advantages not possessed by clinical teachers in every law school. First, we had the support of our faculty, which authorized us to award seven credits (or more than one-half of the usual semester course load of thirteen credits) for student work in the clinic, making our course the most intensive in the law school; accepted our judgment that only credit/no credit grading was consistent with the goals and methods of the clinic; gave us freedom, despite doubts of the sort familiar to law teachers everywhere, to depart dramatically from the teaching methodologies employed elsewhere in the law school, including those in its other clinics; and, with assistance from the Council on Legal Education for Professional Responsibility (CLEPR), provided the necessary funding.[5]

Columbia University provided us with a physical setting suitable both for working with clients and for the academic component of the clinic: a six-room suite in a building near the law school and near public transportation. Our suite consisted of two interviewing rooms, two faculty offices, a small library and student work area, and a large room used both as a reception area for clients and as a general meeting place for clinic members. We had offices in the law school building, but chose to spend most of our time at MHLS. Students could spend as much time in the suite as they wished—it was their place.

Although we insisted that students take personal responsibility for their decisions and for their work in the clinic, the faculty members made certain fundamental decisions before selecting students:

- We fixed in advance the number of students admitted per semester (twenty-four, plus, in the spring semester, three veterans from the fall term who served as student supervisors), the amount of credit, and the meeting hours (two three-hour sessions per week).[6]

---

we have sought to modify are set forth in Crampton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978).

[5] In addition, Dean Michael I. Sovern served as chairman of the board of the new Morningside Heights Legal Services Corporation. Under New York law, incorporation was a necessary pre-condition to judicial authorization for the practice of law by third-year students.

[6] Student demand for the relatively few places in the clinic forced us to adopt a semester model, although we felt, and still feel, that a year-long course would give students a more gradual introduction to the approach of the clinic as well as a more enduring educational experience. Initially, we considered compensating for the short span of a semester by making the clinic the only course students would attend. Ultimately, however, we decided that students should have the opportunity to compare classroom and clinical courses, and should not be asked to cut all ties with the conventional curriculum during their time in the clinic.

- The principle of student responsibility was pre-determined,[7] and to make it real, we accepted only third-year students, because under New York law only they could legally represent clients (albeit under our supervision) in the clinic.

- We determined that each semester students in the clinic would work on only two types of cases (so that they would have a common base of experience to share),[8] and we decided what those two types would be. During the three semesters that we participated in the clinic, the types of cases were (1) administrative proceedings in which the New York City Housing Authority attempted to evict public housing tenants on the ground that they were not desirable tenants, usually because of criminal charges against one member of the family, and in which students represented the tenants; and (2) administrative hearings in the New York City Department of Consumer Affairs, in which consumers complained against licensed home improvement contractors whose services they had purchased, and in which students acted as the Department's staff counsel, seeking remedial action. Thus, in half the cases, students played the role of defense counsel in an administrative case; in the other half, the opposite role of prosecuting attorney.

- We controlled caseloads so that students would have enough different cases to work on during the semester (usually about eight), but would have plenty of time for reflection. We also adjusted caseloads up or down to suit individual student needs.

- We took a large measure of responsibility for setting group meeting times during the first three weeks of each semester, as described below, and declined to accept exclusive responsibility thereafter for this task.

- We (successfully) urged on the group a somewhat special vocabulary, to help members accept the different roles they were asked to play in this seminar, as contrasted with other law school courses. Thus, they were "in-

[7] Many hours of tutorial time and seminar meeting time were devoted to examining the tensions generated by this principle. One phenomenon we observed every semester was that some students charged that we were not really giving them freedom to determine their own learning goals, as we claimed, because *we* had chosen the major goal—that interns learn to use their freedom and to accept its responsibility—and that this choice undermined their freedom to reject that goal. We saw this as a paradox; they sometimes experienced it as our hypocrisy.

[8] *See Report, supra* note 1, at 624.

terns," the classes were "meetings," we were "supervising attorneys" rather than teachers, and all of us were, at all times, on a first name basis, like colleagues in a law office.

ENTRY

Not every law school student would want what we had to offer, and, in any event, we could accept only twenty-four students per semester from a class of about 350. To deal with the selection problem, we went through a fairly elaborate procedure before the start of each semester to ensure that prospective applicants were informed about the nature of work in the clinic before they applied. We designed entry as a kind of contracting process, in which interns would agree with supervisors, and with each other, on a basic set of principles and methods, within the bounds of which they would be free to discover and pursue those individual learning goals and ways of working that seemed best for them.[9] The contract referred to was not, of course, a legal instrument, but we did ask interns to sign a piece of paper after they had heard a thorough disclosure of the way MHLS tended to work. The contract defined the mutual rights and obligations of the members of the clinic, their various roles, and at least some of the ways of working that would be recognized as "legitimate" if interns wished to engage in them. Such a contract "provides the social reality . . . against which any demand, request or proposal may be held up for scrutiny to determine whether or not it is 'appropriate.' "[10] Because the contracting process puts everyone—supervising attorneys, student supervisors, and interns—on notice as to the work and methods the clinic has been established to pursue, it serves as one reference point against which to evaluate performance. For example, interns who contract to obtain the freedom and the resources to develop certain skills, and later realize that they have failed to obtain those skills, may be spurred by the presence of a contract to learn how they inhibit their own learning, or how the resources they thought they needed to attain skills are not the best ones for that purpose, or how the goals they initially set are not the goals they currently have, or how

[9] As with almost every structural decision we made, this contracting mechanism was the result of trial and error. The point we wish to make here is not that our resolution is what *should* be done, but rather that anyone attempting to construct a similar clinical program must give substantial thought to the entry process and do something about it.

[10] Singer, Astrachan, Gould, & Klein, *Boundary Management in Psychological Work with Groups*, 11 J. APPLIED BEHAVIORAL SCI. 134, 147 (1975).

the resources provided by the clinic are inadequate for the learning that interests them.

The need for a contracting process which forces the expectations of student and faculty out into the open is enhanced by the peculiar status of the clinic in the social system of the law school. Work in the clinic involves obligations to clients and to institutions in the community, responsibilities the student does not generally encounter in the rest of the law school world. The message of the contracting process—that all participants in the clinic are teachers and learners—departs from the norm of the conventional law school class, in which the professor takes a far more directive stance toward defining the learning goals and the method of their achievement. In the clinic, the typical work pattern is collaborative, not individualistic. Unless these unique aspects of clinical work are made clear at the outset, interns as well as supervisors may lapse into workways that serve them quite well in the law school's other contexts, but defeat their goals in this one. More importantly, the process of exposing expectations and clarifying goals reduces the later, natural temptation by all concerned to scapegoat the clinic for the failures, confusion, and stress that are either necessary by-products of the learning process, or are simply the mistakes and misperceptions with which all individuals must come to terms if they are to learn.

Our use of the contracting process also reflects our belief that the parties' clear expression of mutual rights and obligations stimulates them to obtain those things they have contracted for. For example, having promised students to share responsibility for determining the content of meetings and the manner in which that content is presented and discussed, supervising attorneys are more likely to facilitate an open, collaborative learning environment; that is, a system in which supervisors have expressly been defined as persons who do not hold a monopoly on the right to determine what should be learned and how it should be learned. Similarly, a student who contracts to share in pedagogical decision-making is more likely to take on the responsibilities entailed by such a learning strategy than is a student who has not done so. Put another way, we believe that people who have said, "I want X or Y or Z from this environment," are more likely to get X or Y or Z than are others who do not know what (beyond a credential) they are seeking. It is unfortunate that law schools generally do not ask students to articulate what they want from the institution.

The initial phase of the contracting process consists of extensive disclosure of what the clinic involves, in an effort to supplement

the inadequate and sometimes misleading information provided by student gossip and by formal catalogue descriptions. Six weeks before the end of a school term we invite eligible students to apply for admission to the program for the following term. They are requested to read a three-page course description, and then to make an appointment to meet with one of the supervising attorneys.

In the written description, prospective applicants are informed that interns staff and run MHLS as a legal services office authorized by the courts to provide legal representation to low-income clients. They are given a brief description of the types of cases they will handle, and they are told that they will act as if they were licensed practitioners—interviewing clients, investigating facts, interrogating witnesses, researching the law, planning strategies, signing pleadings, negotiating settlements, writing memoranda, arguing motions, and participating in administrative hearings and court proceedings. They are told the formal policies of the clinic concerning credit, the grading system, and the clinic's office hours. They learn that because the entire staff is needed to maintain MHLS as an institution, they will be expected to be on duty in the reception area for a specified time period each week, to attend the six hours of weekly office meetings, and to maintain appropriate files in all pending matters.

Prospective interns also receive an outline of the clinic's basic work structure. Legal interns work on cases in teams of two. Each team is assigned a supervising attorney. Although the amount of time required of each intern varies considerably according to individual styles of working and case exigencies, prospective interns are told that their predecessors spent about twenty hours per week working directly on their cases. Nothing is said about an obligation to meet tutorially with supervising attorneys, since each team has enormous freedom in determining the frequency and structure of these sessions.

From the beginning the supervisors seek to convey to students an understanding that the entire MHLS staff, including both interns and supervisors, are responsible for the learning which takes place in the program. Reaching this understanding is the most important, and perhaps the most difficult, task of the contracting process; the attempt to articulate it is first made in the written course description. Students are told that their supervisors see themselves as primarily responsible for maintaining an environment in which reflection on the lawyering process can take place. By contrast, the entire staff, individually and collectively, is deemed

responsible for both learning and teaching—for acquiring and sharing information and insight. No rigid boundaries separate "faculty" and "student" roles in this joint learning and teaching process. Meetings of all kinds—in pairs, in supervisory groups (a supervisor and the four teams he or she supervises), and in staff groups (all clinic members and supervisors)—will be viewed as opportunities to discuss facts, ideas, and feelings about the cases, the institutions, and the people encountered in the lawyering process. These meetings are to be open-ended, and may involve a wide range of matters that individuals feel are relevant to their cases, their work within the institution, and their development as professionals.

The final paragraph of the descriptive document asks applicants to attend an informational meeting scheduled with one of the supervising attorneys. They are told that at the end of the meeting, those wishing to be admitted to the program will be asked to submit an application form. They are also informed that if they request admission and are accepted, they may not later withdraw, except in extraordinary circumstances.

At a typical informational meeting, five or six students talk with a supervising attorney for thirty minutes to an hour. The meeting usually begins with the supervising attorney making a brief statement about the nature of the clinic and the application process, summarizing what has been said in the written description, and making clear that selection for the seminar is done on a random basis, with exceptions to ensure representation by graduates of other clinical seminars, minority students, and women. The supervising attorney emphasizes that the meeting is not a selection interview but an opportunity to raise questions about the program, and to enable students to discover, at a timely stage, whether clinical work would be consistent with their personal goals and work patterns.

Perhaps the most important point made by the supervising attorney is that the clinic has been structured to facilitate development of competence with respect to a set of defined goals. These goals are not exclusive of others; nor need any student feel that he must be interested in working on all of them. But a student who rejects all of them would likely be disappointed by the clinic. These goals are:

1. *Legal skills:* The opportunities the clinic offers for the development of legal skills are impressive. Interns acquire experience interviewing clients and witnesses, preparing them for testifying at hearings, and preparing and conducting direct and cross-

examination. Most interns also counsel clients and prepare legal documents on their behalf. Factual investigations, ranging from photographing physical conditions to obtaining court transcripts, are also part of each individual's work in the clinic; in addition, interns do widely varying amounts of legal research and writing. All interns become involved in at least preliminary negotiations, and most do some hard bargaining. Every student represents clients in adversary hearings, and most plan strategy, engage in motion practice, present testimony and other evidence, and participate in appeals, with an opportunity to prepare and file legal papers and memoranda, to negotiate settlements, and, in some cases, to make oral argument. Most students who apply for any clinic generally associate it with these relatively mechanical, though not unimportant, skills; an important aspect of the informational meeting is to acknowledge the value of the clinic in honing them, while also suggesting other layers of possible learning.

2. *Learning about learning:* The supervisors' experience in legal practice led them to conclude that a lawyer who learns particular skills but not how those skills are acquired is doomed to learning obsolescent knowledge. They concluded that one of the most useful services MHLS can perform is to provide an opportunity for students soon to leave structured education to focus explicitly on methods of learning, in the context of a legal practice in which many options can be tested through experience, discussion, and reflection. Explicit attention to these methods may also help students to examine and challenge decisions made in structuring the clinic's learning environment. The discussions engendered by this approach may alleviate the inevitable problems that arise whenever increasing, and later ultimate, responsibility for learning is placed directly upon students. Interns often do not value this opportunity highly at the beginning of the semester. They generally have been told, implicitly if not explicitly, that their teachers are the ones who best know what learning methods to use, such as when role-playing would be helpful, or when it would be useful to write a paper. Despite these preconceptions, over the course of the semester most of our interns come to realize the fundamental importance of making daily decisions about how to learn.

3. *Interpersonal and group dynamics:* In the clinic each intern experiences a wide variety of interpersonal and group relationships. Each becomes involved with a partner, a supervisor, other students,

and other supervisors.[11] Each plays a variety of roles: individual intern, partner, half of a pair of supervisees, member of a supervisory group of nine, and member of the staff group of twenty-seven. In these various contexts, interns develop and maintain relationships for learning, working, and, usually, socializing. Interns also interact with clients and their friends and relatives; with favorable and opposing witnesses, usually lay but occasionally expert; with attorneys, cooperating and opposing; and with agency administrators, hearing officers, and judges. These interactions occur in various settings, ranging from social affairs to negotiations to adversarial hearings and appeals.

The clinic, however, offers more than just actual participation in such relationships, which to some extent merely anticipate those which interns will begin to develop a few months later in their legal careers. MHLS also provides the opportunity to experience these relationships in an environment in which an explicit part of the agenda is to learn about interpersonal and group dynamics by analyzing and discussing them. Learning to be aware of and sensitive to these dynamics and knowing something about how to work within them to achieve one's ends are useful skills for all of the interns in their future work. To provide this learning opportunity, the clinic environment must be nurtured by trust, respect, and honesty. Thus, it is important that all interns know in advance that if the group wishes to do so, it will be free to discuss the feelings experienced by all clinic members, and how emotions affect the work of the group.[12]

4. *Personal development and self-awareness:* The clinic provides the opportunity for interns to explore and grow personally in the context of practicing law. Each intern is encouraged to articulate personal goals and values and to test out ways to integrate them with the lawyering process. Behavior can be examined to see

---

[11] In spring semesters, when three clinic alumni serve as student supervisors, further personal relationships of great importance develop between interns and their supervisory peers. Although the latter have only slightly greater knowledge about clinical work than do new interns, they are often thought to be possessed of great power and knowledge by virtue of their supervisory role.

[12] For further discussion of interpersonal dynamics in the legal clinic, see *Report, supra* note 1, at 600-04; Himmelstein, *Reassessing Law Schooling: An Inquiry into the Application of Humanistic Educational Psychology to the Teaching of Law*, 53 N.Y.U. L. REV. 514 (1978). *Cf.* Goodpaster, *The Human Arts of Lawyering: Interviewing and Counseling*, 27 J. LEGAL EDUC. 5 (1973). *See also* M. MELTSNER & P. SCHRAG, TOWARD SIMULATION IN LEGAL EDUCATION (limited ed. 1975, 2d ed. to be published in 1979).

whether it is consistent with espoused values and with self-image, whether it in fact evinces different values and senses of self, and whether individuals want to change their behavior because of their feelings about it or their reaction to others' perception of it. By experiencing, observing, and distinguishing many aspects and styles of lawyering, individuals can begin to find those which they feel are most personally fulfilling. We try to fashion a supportive and reflective environment, in which interns feel secure enough both to take the risks involved in the experimenting and changing necessary for growth and to share such experiences with others. At the same time, we recognize that these are steps individuals must decide to take for themselves, at their own rates and in their own ways; like the other items on our list, personal development is intended to be a learning opportunity, not a goal that we impose on interns.

After listing the opportunities we are attempting to provide in the clinic, the supervisor may suggest some of the constraints on their achievement. These include a lack of time, conflicts among individuals and within each individual concerning opportunities for learning, and the burdens of client representation.

Student questions and comments often sidestep any discussion of these opportunities and constraints and tend to focus on cases and clients (Where do we get referrals? Are clients cooperative?) or workload (How many hours are required?). When students do comment on goals, many emphasize skills training as their chief motive for choosing to work in the clinic. A number use this meeting as an attempt to sell themselves to the supervisor. Some make an effort to communicate that they are dissatisfied with their roles as students in conventional classes. Although it is difficult to know with any confidence what students carry away from these meetings, we are encouraged that between forty and sixty percent of those who attend the meetings choose not to apply. This suggests to us that the contracting process in fact discloses something of the demands and responsibilities involved, and that the clinic is attracting students who seem more willing to accept the basic assumptions under which it was established.[13]

[13] Of course, our encouragement is only by reference to the group of adventurers who do apply, and whose number, fortunately, has always exceeded the number of places we have to offer. It is profoundly *discouraging* that many students with some interest in clinical work express anxiety about an environment in which they will have to share responsibility for planning the learning, and particularly one in which their peers may decide to put feelings on the agenda. Of course, this phenomenon is not particularly surprising, since the opportunities offered by MHLS seem to us to be significantly broader in scope than those offered generally at the law school, the

First Meeting

At the first meeting of the staff, the members of the clinic seat themselves, unless someone chooses to change the arrangement, on cushions arranged in a circle on the carpeted floor of the MHLS reception area. The supervising attorneys restate their understanding that the clinic is structured to help students attain their own goals, and emphasize that the process of defining and redefining goals is not a matter of abstract inquiry. To help make the abstract concrete we employ an exercise called "the goal definer." In one first meeting, Mike said something like this to the group:

"At the close of last term we asked interns to evaluate the clinic and to suggest institutional changes. One of the things they reported was that they got more out of their work when they had identified as specifically as possible the learning goals they hoped to attain in the clinic. They also suggested that more attention be given to the goal-defining process in the beginning of a term.

"Now this puts us in something of a bind—a dilemma we would like to share with you. There is a short exercise that we have found helpful to us in beginning the process of identifying our objectives as learners in the clinic, but if we just go ahead and ask you to do it, without more, some people may feel they are being railroaded into a form of work they are unfamiliar with. For that reason they may resist any possible learning that could come out of it. On the other hand, if, instead of asking you to do it, we ask you to decide as a group whether or not to do it, some people may think they are being patronized, or the group may end up only talking about the exercise rather than doing it. Given these conflicting pressures, we are going to take responsibility for moving ahead by inviting you to participate in this brief exercise. If as we proceed you find that you don't feel comfortable with it, or if it doesn't work for you, please feel free to stop. There will be an opportunity for us to share our reactions when we are finished. And after the first three weeks of the course, which are something of an orientation, we will only rarely take an initiative of this kind; the group will have the lion's share of responsibility for selecting its work.

"Now would each of you pick someone with whom you would like to work, or pair up with the person next to you, and get yourself comfortable."

---

parent body whose characteristics determine the self-selection of the entire student group of which our applicants are a subset. Most law school applicants never bargained for this.

After the group settled itself in pairs around the room, Mike continued:

"Take a minute to clear your mind; you might close your eyes for a moment. Then think about the goals you have for your work in the clinic, trying to be as specific as you can. Out of these goals, let one or two emerge and talk to your partner about it or them. The goals you select needn't be the most important; if you wish, share those you feel most comfortable talking about."

After giving the pairs ten minutes to talk about the goals they had identified, Mike asked for examples. Susan [14] said she wanted to be less timid. Tim wanted to learn how to get help from the people he worked with. Sam wanted to work with low-income clients. After several more examples, Mike continued: "Now that you have a goal or two to focus on, I would like you to think for a moment about ways in which you might sabotage your achievement of it (or them), and not achieve whatever it is that you want from this experience. If anything comes to mind, tell your partner about it. An example might be, 'One of my goals is to learn how to cross-examine, but I might sabotage myself by being too nervous with witnesses and too defensive about feedback.' "

The members of the group were less willing to share ways they thought they might interfere with attaining their goals than they had been to discuss the goals themselves. One intern mentioned that he had a tendency to talk rather than to listen. His goal had been to learn from the experience of others. Another intern, whose goal had been to develop his skill as a negotiator, thought that his capacity to criticize others might get in the way. A third thought laziness might "interfere with my getting any of my goals."

"At this point," Mike went on, "I would like you to think to yourself, 'How can I avoid sabotaging myself in the way or ways I have identified? What can I do or feel, or how can I work, so that I won't interfere with my achievement of my goals? For example, if I want to learn how to cross-examine effectively but am afraid I will be too nervous, I might avoid sabotaging myself by putting special effort into preparation, or by role-playing the examination with my partner or supervisor before I do it at a hearing. To avoid defensiveness, I might go over the tape recording of my cross-examination at the hearing and write a brief memo for myself which focuses, not on how I did, but on what I have learned for next time.' These are, of course, only examples. Once you have thought

[14] All names but ours have been changed to respect the privacy of interns and clients.

about what you might do to avoid sabotaging yourself in reaching the goal or goals you have identified, I would like you to share it with your partner—not with the group, but with the person you are working with."

After giving the pairs several minutes to talk to each other, Mike continued: "Lastly, I would like you to think of ways in which this environment can help you to attain your goals. What can fellow interns, supervising attorneys, clients, and adversaries do to help you get what you want? Or, what kinds of arrangements or resources can be made available to you?" Interns then made a list of environmental supports that included "feeling comfortable" with supervisors, a cooperative working relationship with partners, time to investigate cases thoroughly, and a "general sense from the group" that it is all right to share doubts and difficulties.

As the last part of the exercise, we asked the interns to discuss their reactions to this first dose of experiential work. The group had a wide range of feelings, but was somewhat hesitant to discuss them at first. However, those feelings later emerged, with surprising vigor, during the informal wine and cheese mingling period that completed the first staff meeting. There were interns who found the exercise useful; interns who, whether mystified or curious, saw it as a first step in the unfolding drama of their confrontation with the lawyer's role; and interns who doubted that working in this manner could be useful to them. Although the primary goal of the exercise was to help interns begin to identify what they wanted from MHLS and how they could get it, our use of the exercise also reflected a desire to work directly with interns' experiences of the institution and with their definitions of the lawyer's role. We were therefore pleased to discover that skepticism was combined with healthy fear that personal privacy might be invaded. Had doubts not been articulated, we would not have been able to distinguish what we hoped to accomplish from the stereotypical notions of "touchy-feely encounters" or amateur psychologizing that some interns probably expected to find on our agenda. We made clear that work in the clinic was likely to involve far more sharing of information and feelings than most interns had previously encountered in an educational setting, but that interns would draw the line between what was and what wasn't useful to them professionally. We reiterated that MHLS was not organized for therapeutic purposes, and that the exercise was selected because we thought it relevant to the work. Finally, we informed them that previous students had endorsed goal-defining exercises, and we re-

minded them that they should give new ways of learning about lawyering a chance before rejecting them.[15]

Exit

Even the skeptics usually take us at our word, probably because our students have invested sufficient trust in us to take some risks. But occasionally, working in this manner is not acceptable to an intern, and our efforts at screening out uninterested students through early disclosure are, in rare instances, unsuccessful. If an intern strongly wants to leave the clinic, we try to negotiate a reasonable termination of the contract. On one occasion, a student named Tom came to us the day after an opening meeting. He wanted out. Tom explained that the way we seemed to work at the meeting was totally antithetical to everything he knew about the way in which he learns. "I don't like the isolation of feelings," he said.

Phil asked if feelings ever became important to Tom in a legal context. "Suppose you are arguing a motion to a hearing officer, and suddenly he becomes angry. Is it important for you to be aware of that? To know how to deal with it? To know how you react to it?"

"I don't want to be that kind of a lawyer," Tom responded. "He might raise his voice, but I can't investigate feelings. I learn when somebody puts a problem on my desk, and I draft a complaint or interview a client."

Mike said he wanted to clarify that "we aren't, or we don't think we are, *isolating* feelings. We are trying to deal with the experiences of lawyering. That includes feelings. But feelings aren't our exclusive concern. We are attempting to facilitate the integration of what is happening, how you experience what is happening, and the values you bring to an evaluation of what is happening."

Tom paused. "I can understand how other people can learn from what you are doing, but I can't."

Holly asked, "Isn't that the question—whether you are willing to work within this system, raising your doubts and differences and learning from our approach?"

---

[15] The goal-defining exercise was an experiment which we later evaluated as only partially successful. We decided that it would be more useful to interns if made available only after the group itself had raised questions concerning objectives and means to attain them.

"I understand," Tom replied, "that you hold that out. I think what you are doing is fine, but it isn't for me at this time and place."

"I admire your capacity to distinguish what we have to offer," Holly answered, "and what you need in order to learn in the best way for you. Perhaps we should talk about transition. You have your first interview scheduled on Friday, and I don't think it would be good for the client to have you there and then have you disappear. I want to talk with your partner about that. But an even more important issue for me is the group. They may have every conceivable idea about why you are dropping out. They may think you are freaking out. Who knows? Do you have any desire to share your position with them? That would help anyone who shared your doubts but was reluctant to voice them."

"I don't know. I want to think about that. I have trouble with public appearances."

"Well," Phil added, "I hope you will do this for the group, not for yourself. They may need to work this through."

Tom said, "I'll think about it."

The meeting ended. A student who was on the waiting list joined the clinic, picked up Tom's cases, and agreed to work with his partner. Tom thought it over and decided he didn't want to discuss his decision with the rest of the group. Holly, Mike, and Phil announced his departure at the next group meeting and asked if there was comment or discussion. There was none. But references to Tom's mysterious departure surfaced weeks later when other students were grappling with decisions about what sorts of classroom work would best prepare them for their first hearings before an agency or court. They found themselves drawn to and also repelled by the preparatory technique of simulated performance of portions of their cases. Such work involved sharing their thoughts and feelings about peers, supervisors, and clients; it gave others, as well as themselves, the opportunity to evaluate their performance. In the wake of the initial embarrassment and anxiety which these rehearsals created, several interns wondered aloud whether Tom was aware after the first session of something they had not yet grasped.

THE PAIR

Although MHLS's jurisdiction and case intake standards have been set in advance by the supervisors with the advice of interns from previous terms, from the moment a case enters the office ulti-

mate responsibility for determining the steps which must be taken in order to represent the client at a high level of competence, and then for taking those steps, rests squarely with the pair of interns assigned the case. In the beginning of the term, case assignment is done on a random basis, but later in the semester supervisors will occasionally consult intern pairs about their workload before assigning them new cases.

We have experimented with various methods of selecting the pairs, from drawing names out of a hat; to permitting each group of eight supervisees to negotiate with their supervisor as to the manner in which pairs will be chosen, so long as students with clinical experience are paired with those without such experience; to allowing partnerships to be selected in any way the group of eight chooses. This issue surfaces at the beginning of each term, before there is ample opportunity to work through and reflect on its significance. Generally, interns feel that both the process of selection and its result are tremendously important; both generate powerful anxieties. Interns who enter the seminar often fear, despite what we say or do, that they are being manipulated into working with people whom they have not selected (or, some believe, with people whom the supervisors chose in order to create the most working conflict, and thereby to enhance the learning experience). The best method we have found for allaying these concerns is to express our belief that it is valuable to have at least one experienced intern (that is, an alumnus of another clinical seminar) in each pair. We tell students that we would like them to choose the principle by which pairs are selected, but we also want to report our experience: that we have found advantages in alumnus/non-alumnus pairing; and that interns who worked with persons whom they did not know, or whom they hesitated to pair with, reported that coming to terms with a partner who was not a known quantity had presented a number of important learning opportunities. We tell students that although this information may make them feel that what we "really" want is alumnus/non-alumnus pairing, or pairings between relative strangers, in fact what we "really" want is for them to decide, and for us to be free to share our experience without it being accepted or rejected simply because it is our experience.

Interns may decide the pairing issue as they wish, but our announcement, like any other suggestion we make during the term, complicates rather than simplifies the decision. First, the interns must test out their "freedom": are the supervisors covertly manipulating the group? If interns do not raise that question, we some-

times do so. Of course, our suggestion that they explore the issue of manipulation by supervisors *itself* forces another intern decision: whether to explore that topic, and if so, why? Merely because persons vested with some degree of authority have urged them to do so? Then interns must come to terms with the diverse wishes of group members and hammer out a means of making decisions in the face of both potential and real dissent. Sometimes the eight interns know little about one another, but choose to pair consensually on the basis of stereotypes or in order to please two interns who know each other and want to work together. The meeting at which the pairing issue is hashed out often takes several hours. Because the pair relationship generates many of the learning issues dealt with later in the term, and because it is easier for interns to flee from these issues if the partnership is thought of as imposed from above, we believe this is time well spent. We generally do not urge interns to analyze immediately the way in which they paired, since there may not be enough trust in the beginning for an open and honest discussion of this sensitive issue; but we do usually suggest such a discussion later in the semester.

Partnerships are as diverse as marriages. In some, every decision is shared; in others, responsibilities for each case are delegated to one partner as "lead counsel," with the other member playing a backup role. In some, the two partners choose to work almost independently of each other; in many the pattern is mixed or changes over time. In some, values clash; in others they coalesce. Some are characterized by mutual trust, loyalty, openness, deference to the opinions of the partner, and a commitment to share information and make joint decisions. Others are beset by wrangling, contrary perceptions of the same event, competition, subtle censure, and persistent feelings "that we haven't got it together." We have seen pairings in which firm friends grew to feel that they had never really known each other before and even stopped speaking to each other for a time; in which virtual strangers remained virtual strangers; and in which two people who seemed at the outset to have nothing in common concluded that working together was the high point of their legal education.

That there will be difficulties each term in at least some of the partnerships is predictable; but pairing, including regular analysis of the evolution of the pairing relationship in meetings of the pair with its supervisor, is one of the aspects of the clinic about which we have fewest reservations, and which we would unhesitatingly recommend to others. In a reflective environment, in which part

of the task people set for themselves is learning what their lawyering means in both personal and social terms, even a troubled partnership provides a rich context in which to work through difficult professional issues. Pairing, we believe, helps interns learn how to learn from their peers, teaches that the presence of a faculty member or other senior person is not necessary for learning, and ultimately confirms that students have something they can teach each other.

Partnerships are particularly valuable in raising racial and sexual issues inherent in professional relationships. In pairs that cross ethnic or sexual lines, partners are given both an opportunity and a reason to learn about their biases and their capacities to stereotype. Pairing also provides a cushion for some of the shocks that follow representation of clients who come from a different social world than do the students. By sharing their experiences with a partner, interns often gain the support they need to overcome the anxieties and doubts produced by encounters with poverty and crime, or with the rigidity of a bureaucracy, or with the confusion of the state courts.

Unquestionably, a smoothly working, coordinated partnership provides a bonus in service to the client. For example, one intern can take notes or focus on non-verbal communication while the other interviews, or one can research the law while his partner talks to potential witnesses. Indeed, perhaps the most unexpected learning for students unfamiliar with team work is that role differentiation can yield dividends for the client, especially when the lawyers are dealing with a complex bureaucracy. One member's attempt to negotiate with opposing counsel may fail; a partner employing a different strategy may later succeed. Partner specialization, however, may help the client at the cost of distancing the partners from each other unless they learn to view their individual activities as delegated by an integrated, collaborative entity—the partnership. Here, as in other aspects of clinical work, students are faced with the crucial task of bringing fragments of experience together into an integrated whole by planning, monitoring, and evaluating their impact in group, as well as individual, terms.

THE TRIO

Each pair forms a trio with its supervisor. Although the multiple tasks of the supervisor in this relationship are easy to list, it is difficult to capture the flavor of the work among the members of the trio. For interns, the supervisor may become a source from

which information is gathered; a backboard against which case plans are bounced; a judge from whom they expect praise or censure; a friend who will say things no one else would dare to say; a voice who will simply keep asking "Why?" until that question is internalized; an adversary with his or her own ideas about how to work, which an intern can either accept or reject, but cannot totally ignore; a safety net who will catch a mistake before it really damages a client; or all of these things, as the trio relationship changes during the semester. The supervisor may conceive of the role very differently than do the interns. Its form responds to interaction among the three over time; to demands made on the supervisor by the partners, both as individuals and as a pair; to the supervisors' own conception of the role; and to the cases and the context in which they arise.

Issues concerning goals and working procedures surface early in the work of the trio. The supervisor usually asks the partners about their learning goals and the role they would like him to play in helping them attain those goals. To be sure, this question often mystifies interns in their first week of the seminar (despite the informational meeting); it is difficult for many of them to understand that, after twenty years in educational systems in which learning goals devolved from the institution, they now have some choice in the matter, just as they will in the matter of the learning they choose to do for the rest of their lives. On the basis of their reply, which may take days or even weeks to frame, the supervising attorney may present a suggestive profile of his role and then seek agreement or modification from the interns. In fashioning this role, the supervisor cautions the interns that they must take account of the limits of abstract role definition, and that any learning contract must be subject to change.

The participation of the supervisor is best illustrated by example. One sequence [16] of supervisor-partner meetings concerning one of the partners' several cases (the other cases were discussed in separate sequences of supervisory meetings) consisted of an initial meeting at which the interns' goals and their preconceptions of the client's goals were discussed, a second meeting in which the trio scrutinized the case file, a third meeting before the pair's initial

[16] Since the supervising attorneys spend nearly all of their time in the clinic, and since the clinic comprises half of the interns' course load (and demands far more than half of the time they spend on school work), meetings with supervisors are generally arranged on short notice, whenever a pair of interns desires one. (An individual intern may see a supervisor alone, but the supervisor will generally ask whether the pair has agreed that an individual meeting is desirable, and if so, why.)

interview, a fourth to review the interview and to discuss its implications for planning the case, a fifth to discuss ongoing investigation, a sixth and seventh to plan the hearing, an eighth to review the hearing and to discuss its implications, a ninth after the decision was rendered, a tenth to plan an appeal, an eleventh to discuss the appellate papers, a twelfth to discuss appeals court strategy, and a thirteenth to discuss what to do after the appeals court had ruled.

This sequence was not dictated by the supervising attorney; rather, the partners called each meeting and began each with a discussion of how they wanted to use the meeting time. While the decision rested with the interns, the supervisor could help them decide the best use of meeting time, usually by suggesting techniques to achieve the students' goals. For example, a meeting to plan a hearing could involve role-playing, with or without the participation of the supervisor, and with or without videotape or audio tape; a blackboard analysis of options; a review of tapes of similar hearings; exercises to help the interns with their anxieties about an overbearing hearing officer, or many other preparatory techniques. Often, interns will want the trio to discuss matters more abstract than the steps of a case: for example, their feelings about being evaluated by their supervisor or by clients, their feelings about clients and adversaries, difficult ethical choices that they must make,[17] the pair relationship between the partners, the relationship between the partners and the supervisor, or even personal issues affecting their work.

We have different supervisory styles, but our approaches share certain assumptions about the learning process. Because we believe that learning depends on the learner taking responsibility for identifying his or her goals and their relative priorities, the essence of our supervisory function is to help interns identify and clarify their goals and the means to attain them. We try to maximize the degree to which we are conscious of everything that we do in the supervisory relationship, just as we urge interns to maximize their consciousness of their pair, client, and other professional relationships.

For example, we must consciously decide how to approach our initial meeting with each pair of interns concerning their casework. Should we say, "I'd like to meet in two days to discuss this case."? Should we come to an early meeting with an agenda of issues to

[17] For examples of ethical problems arising in a legal services context, see *Report, supra* note 1, at 618-22. *See also* Kayne, *Cases Illustrating Ethical Problems* in CLINICAL EDUCATION FOR THE LAW STUDENT 114 (working papers prepared for the Council on Legal Education for Professional Responsibility (CLEPR) National Conference, 1973).

discuss about the case? Or should we say, "Here are your cases. My door is always open; please come to me whenever you want to."? We use variations of these approaches in our supervisory work, but always in a controlled time sequence and with specific goals in mind. In the beginning, when the interns are just learning the rudiments of the files and the institutional processes they will be dealing with, we encourage frequent meetings and take the lead in raising certain issues about the cases. At the same time, however, we try to make it clear that, as lawyers, they have the power to decide both how to handle their cases and how to use supervisory time. As time goes by and interns become more familiar with the options open to them in handling their cases and learn more about their own learning priorities, we try to be available to interns only at *their* initiative. Of course, because we are obligated to deliver high quality service to clients, we must periodically check the interns' progress on each case, even though the intrusiveness of this checking process could impede some of our other goals. Nevertheless, it is still the interns' prerogative to decide whether (and how) they want to use us as a resource.

It is also made clear that the supervisory relationship itself is a proper subject for joint study. The supervisor periodically renegotiates with each student pair the role they currently want him or her to play. It takes a surprisingly short time for interns to learn that we like to discuss our role before involving ourselves in a problem. For example, a pair having difficulty deciding what to do in a particular case, (such as which witnesses to interview) might initially decide simply to ask the supervisor for a solution. Our response might be, "Do you really want me to answer that question right now? If you do, I will; but since your hearing isn't tomorrow, would your goals be better satisfied if you worked on that issue with each other first, and made a tentative decision about what witnesses to call and why? Then we could talk about what help I can give. That's a second option. But if you want me to bounce around my ideas first, I'd be happy to do that as well." The goal here is not to send the interns away, but to make them responsible for deciding how to use supervisors as a resource, and to give them repeated experience with which to evaluate the consequences of their choice.

Such encounters can go very badly if the participants do not take into account the norms of the law school. The intern who asks a supervisor which witnesses he or she should call and hears the supervisor say, "Do you want me to answer that question now?" may understand the dialogue in terms of a previous experience with

law teachers who hide the ball and who never really answer questions. If we are to succeed in the supervisory role, we must demonstrate that we have much to give and that we will give it; but that it is the interns' responsibility to decide when, where, and how to get it. This role is easier for interns to accept once they have actually played the lawyer's role. Then they learn experientially that there are many decisions they can in fact make better than can the supervisor; that although supervisors have good advice to offer, they lack the close client contact which the intern/lawyers enjoy, and which gives the interns a fresher, more accurate perspective on the client's problems.

Partly because of the abuse of the Socratic method in traditional law school classrooms, students in the clinic initially experience difficulty in understanding and accepting the role of their supervisors. They may feel that supervisors have all the knowledge, and may invest far more experience, skill and data in the faculty member than is realistic. They may assume that their supervisor conceals the answer to every question, or, paradoxically, that there are no answers to any legal questions, but only the dialogue typical of classroom exchanges. These signals from their classroom experience may lead to intense frustration when they have to make a binding decision. Because affirmative choices can be extraordinarily difficult to make, a student in the grip of confusion about his or her relationship to the supervisor may either act impulsively or procrastinate, so that a decision is made by default. Ironically, the supervisor often feels that the student is in the better position to make an informed choice, even when he does not choose wisely.

In order to play the role of facilitator, the supervisor must be responsive to the development of the intern as a fully responsible professional. This requires us to examine our experiences with students in order to gauge our relationship with them, their needs, and their expectations. Some pairs feel extraordinarily dependent upon their supervisor and require guidance, particularly in the beginning of the semester. They would react very negatively to the response, "Do you really want me to give an answer to your question?" An alternative response might be to ask, "What facts do you think I need to know in order to help you make this decision?" The ensuing dialogue may enlarge the interns' awareness of the information they need to consider in making the decision.

Another device we use to deal with such situations early in the term is the decision tree. The supervisor helps the interns outline events that might happen in the course of the case and attempts to

assign probabilities to those events by drawing a decision tree on a blackboard or a piece of paper. Charting out the alternatives available and their interdependence seems to help interns to see the likely consequences of various choices. Initially, interns often treat possibilities sketched out on the tree as if they were probabilities. They may, for example, say that they do not want to put a policeman on the stand because there is a possibility that this policeman will testify in an extremely damaging way. Examination of such assumptions often reveals that it is unlikely that the policeman actually knows any damaging information about the client. If we suspect that the interns are either overly cautious about taking risks (and are not particularly aware of that fact), or that they are assigning probabilities in a way contrary to our experience, we might point out some of the problems previous students have had in this regard. Or we might draw upon our own experience, if it seemed to fit, saying: "There are times when I have resisted the notion of calling police officers to testify because I find it difficult to cross-examine them." But we would not tell interns what to do, either directly or indirectly, because doing so on even a few occasions would undercut our principal message—that interns are responsible for representing their clients—and because we lack the information to do so with any confidence.

The tension between our roles as facilitators of intern-oriented learning and as supervisors on cases affecting actual clients' interests is a constant, major theme in our work. The ethical implications of our dual role are a subject of frequent discussion among supervisors and with interns. Occasionally, for example, a pair of interns neglects a client whose hearing date is approaching, and does not ask for supervision on that case. At what point should we step in to insist on a supervisory meeting? Would doing so convey to the interns that it is all right for them to be lax, because we will save them? Would not doing so convey the message that the supervising attorneys don't respect low-income clients enough to insist that they receive quality representation? We have found that the first step in the resolution of such dilemmas is sharing the dilemma itself with the interns, and asking them to participate with us in the resolution of our role conflict.

In practice, we only rarely need to intervene, either in the preparation stage or at the hearing itself. In administrative hearings, we sit as observers in the back of the room, rather than at the counsel table. If interns feel that they are in trouble during a hearing, they can consult with each other, or they can request a recess;

if a recess is granted, we are available to talk with them in the corridor. Indeed, it is gratifying to observe that by the end of a semester, many interns use such recesses to consult with their partners in the corridor, without asking us to join the discussion. Although we have never felt the need to intervene in a hearing, we have occasionally done so in an office interview with a client, usually in the extremely rare case in which an intern has offered irreparably damaging advice, or has treated the client in a hurtful way. Of course, students often fail to use interviews to full advantage, but that is the kind of "mistake" which can be corrected at the next meeting, and therefore does not require a supervisor's intervention.

Many students are frustrated by our refusals to intervene and by our insistence on being asked before we tell them how we would do something. Some would like to handle cases exactly as we would. They believe that because we are teachers, our way must be right, and that they have very little to offer. Teachers trying out the methods we have used must expect that many of their students will be angry at them, particularly during the early weeks of the semester when the students are most insecure about their competence. At the end of the case, even after we have given interns our suggestions all along, some will finally ask, "How would you have done this?"

If we respond, "I would have done it the way that I mentioned a month ago, but I think that your way was okay, too," they become very annoyed by our failure to have overruled their decisions. They are convinced that our way must have been the right way.

It is an important part of our work, then, to separate the competence we have from the competence that interns invest in us; to help students understand that because we do not function in the role of attorneys in their cases, we are not confident that our way of handling a case would be the best. We try not to focus on a model of how we would do it; rather, we encourage them in their model, working with their information and experience, their feelings of competence or incompetence, their actual strengths and weaknesses as people, and the strengths and weaknesses of the relationships they have developed with clients and others in the course of handling the case.

Supervision: Example 1

Ted's grades were poor; he was openly rebellious. He had flunked several courses; rarely attended classes; and was scornful of fellow students, faculty members, and the administration. He had

few friends among the student body and was generally regarded as a "goof-off." One student had requested not to be included in Ted's small group if he were admitted to the clinic; that student probably feared being paired with him.

Early in his second year, however, Ted had taken a part-time job as a Legal Aid Society researcher, working on criminal cases. Since then, he had spent most of his free time at the Legal Aid office; thus, he knew far more about the operation of the courts and legal services agencies than did his peers. After one of the informational meetings, Ted made an emotional plea that he be admitted to the clinic, arguing that this was the only course in the law school that held any meaning for him, and that if he were not admitted, his third year would be a bust. "I'm going to *their* law school because it is the only way to get a license," he said defiantly. "I'm going to yours because I want to."

Several weeks later Ted's name was drawn and he was admitted to the clinic. Despite his high motivation, he quickly demonstrated that he had trouble working with just about everyone in the clinic. He interrupted an orientation lecture with a question so irrelevant to the group that it produced titters. At an early staff meeting, he stretched out on the floor and went to sleep. He also sharply questioned why he and his partner should meet with their supervising attorney before their first client interview.

Ted had been paired with Bill, a student with similar interests and with a record of remaining isolated from the life of the school. They made it clear to Mike (their supervisor) that they were primarily interested in working on their cases with as little interference as possible. "We will tell you when we want your help," they said.

Mike agreed to try working this way, and when he asked Ted and Bill to specify their learning goals, they said only that they wanted to perfect their legal skills. The conversation was filled with jokes and awkward pauses; although Mike felt that not much work was being done, he said nothing. At this point, Ted and Bill wanted no interference, so Mike decided that very little of his experience would have meaning for them. The conversation turned to the cases themselves, and immediately Ted and Bill became excited, full of good ideas, and full of predictions about their first interviews and hearings. They talked about those hearings as if they were donning battle garb.

Ted and Bill's first case involved indecent exposure charges against a young man named Sean. At the initial interview Sean arrived with his mother. After conferring, Ted and Bill decided

to talk to mother and son together, at least initially. They did not ask Mike for assistance in making this decision, and he offered none.

At the interview, the interns started to assemble the facts, but because they had not previously decided who would be responsible for which tasks during the meeting, they continually interrupted each other. Bill conveyed an easy-going and non-judgmental attitude, but Ted grew increasingly impatient with Sean's confusing alibi story, and attempted to cross-examine him. Though hostility never broke out into the open, Sean and his mother became defensive; their statements made less and less sense.

Mike, who had been introduced to the clients as "our supervisor," sat through the interview as an observer. He made an occasional note to remind himself of matters that he would want to talk to the interns about after the interview; these pertained to legal issues in the case, as well as to the style and manner of communication between the interns and their clients. After the interview was concluded, Ted and Bill talked about some of the legal issues. Mike was present, but said little. Finally, Bill turned to Mike and asked his response to the interview.

"Would you rather," Mike replied, "have me tell you what I felt first, or do you want to tell me what you felt first?"

"You first," said Bill.

"How about you?," Mike asked Ted. Ted nodded his agreement with Bill.

"Are you sure?" Mike asked.

"Certainly," replied Ted.

Mike told them some of his observations, including his feelings that they didn't have their own roles straight and that they didn't understand some of the legal advice they had given their clients. Bill discussed these issues with Mike for twenty minutes, while Ted was silent. When Mike commented on Ted's silence, Ted shrugged.

In the weeks that followed, the clients became increasingly uncooperative in tracking down character witnesses and in assembling documents that they had said they would provide. The clients apparently expected Ted and Bill to do everything. Ted's references to them showed increasing anger and irritation.

At the hearing, Ted and Bill were well prepared for legal combat. They had anticipated the Housing Authority's case and poked several large holes in it; they also made a number of motions which preserved interesting questions for possible appellate review. Mike was impressed by their maturity and skill. But Sean told a different alibi story than the one he had given in the initial interview; Ted

became restless in the hearing room and occasionally looked over to Mike, who was observing. Ted wisely terminated Sean's testimony before any serious damage had been done. As witnesses and lawyers filed out of the room, Sean asked Ted how the case looked, where upon Ted suddenly turned on him: "If you get evicted, it's your own fault for lying." The client looked depressed and said nothing.

Over coffee, Ted and Bill excitedly discussed their first taste of battle. They were proud of themselves and their skills, and optimistic about how the case would turn out. Ted kept referring to his client's surprising alibi story. Mike said that he was generally reluctant to give feedback, unless specifically asked to do so; and that he was even more reluctant with Ted and Bill, because the three of them had agreed to work that way. But Mike also had a "strong feelings" rule. He wanted now to say something so strongly that he wasn't going to wait to be invited: that Sean was probably offended by what Ted had said to him.

"So you don't think I should have said that?" Ted asked.

"That isn't what I said. I said that I thought Sean was offended; certainly I would have been. It is also true that I wouldn't have said what you said because I don't feel good when I offend people; but that is a different point. Expressing your feelings could be so important to you that you should do so even when they distance you from your client. It is your right to choose that response. My role is to tell you how I believe the client felt."

Ted stared open-mouthed. "Are you really saying that, or do you mean 'Don't do it, it isn't right'?"

Mike replied that as far as he was concerned, it was all right for Ted to do one thing and for Mike to do another. "The important point is that you ought to be aware of the impact of what you do before you decide to do it. Again, my role is to tell you my experience of your lawyering, not to tell you what to do."

There was a long pause. Then Ted, Bill, and Mike talked about other subjects.

The next day Ted came to see Mike and said he wanted to make sure he had heard him correctly the day before. The conversation was repeated.

A week later the hearing officer ruled against Sean; he was evicted from public housing. After consulting with their client, Ted and Bill decided to appeal.

In the months remaining in the term, Ted met both success and failure with his other cases. Mike noticed, however, that he was far more considerate of clients, fellow students, and supervi-

sors than he had been. Shortly after their last conversation concerning Sean's case, Ted asked Mike to tell him on a regular basis his impression of how other people were experiencing him. Mike agreed, and also suggested that Ted request the same kind of feedback from members of the small group that Mike supervised. Ted did this and was told immediately by several people that they felt he was trying to "put them down." Later Mike observed that these same interns developed a much closer relationship with Ted than they had had before, and that they became far more supportive of him in his work. Four weeks later, Ted volunteered to do a particularly difficult task for the clinic; he also began to speak up in meetings, and fellow interns started listening to what he had to say.

Supervision: Example 2

Arthur frequently showed tenseness and anxiety when criticized and a great desire for the approval of Phil, his supervisor. Near the end of the semester, Arthur learned that his partner, George, had been selected by the three supervisors to be a student supervisor for the following term. He accused Phil of attributing solely to George all the good work produced by the partnership; he accused the supervisors generally of being hypocritical, since they claimed that they were not "grading," and yet they had selected three of the twenty-four interns to be student supervisors. The supervisors told him that they did not view their selection of some interns for continued work as a negative evaluation of the others; moreover, Phil told Arthur that he indeed had appreciated Arthur's contribution to the partnership.

Mike and Holly told Phil that they shared his view that Arthur was being driven unduly by his need for approval, and that this quality could eventually create difficulties in his professional life. This confirmation strengthened Phil's resolve to confront Arthur, if he ever asked for feedback, squarely with this perception. Two weeks later, Arthur and George asked for a supervised session to discuss evaluation. But when the session started, the interns brought up an hour's worth of relatively trivial case-related issues. After the hour had gone by, with good feelings on all sides, the group let the conversation lapse into twenty seconds of silence.

Then Arthur said, " I really asked for this meeting to talk about some other things, including that incident two weeks ago, but George and I decided on the way over here not to talk about that."

Phil said, "That's all right. I'd be happy to talk about that, but I won't force you to."

Arthur nodded. "I don't see how it could do any good now. It's over with."

"I have some feedback that may be helpful," Phil replied, "but only if you want to discuss it." Phil was unsure whether by saying this he was manipulating Arthur into talking (in order to get Phil's approval), or giving Arthur an opening gracefully to knock down his own rationalization—that he had agreed with George not to discuss the subject.

"I guess I'd like to hear what you think," said Arthur, "and then talk about it."

Phil then pointed to several incidents that had occurred during the semester, which suggested to him that Arthur's apparent desire for approval from a person in authority was interfering with his representation of clients. He also indicated ways in which this tendency could cause Arthur severe difficulty in his first years of professional life. Arthur readily agreed with Phil's assessment, reporting how pleased he had felt when Phil had said, within the last two weeks, that Arthur and George seemed to have an excellently functioning partnership. (Phil had said this deliberately—he'd worried that it was another manipulation—knowing that Arthur would need a dose of clear approval before being able to absorb less rewarding feedback.)

The trio discussed the issue of approval for a while, and Arthur asked for advice on how to solve the problem. Phil suggested that Arthur identify times in his life when he had found self-evaluation satisfying, and that he try to discern why it was satisfying on those occasions. George suggested forming a functioning peer group of new associates at the firm that Arthur would be joining, so that all review would not come from partners "on high."[18] Arthur thought George's idea creative, and suggested that if he took anything away

[18] We are grateful to Professor Howard Lesnick of the University of Pennsylvania Law School for pointing out that the growth and change we noticed in interns may have reflected, in part, the relative absence of externally-induced competition in the student peer group, at least when compared to the competitive environment of a law firm, in which some associates will fall by the wayside, losers in the quest for partnership. But just as work in the clinic showed us that what Dean Crampton calls "noncognitive aspects of behavior and thought" can be taught in a noncompetitive law school setting without loss of "toughmindedness," *see* Crampton, *supra* note 4, at 260-61, the social life of the law firm need not be organized on Hobbesian principles. Without belaboring a subject plainly deserving independent examination, we believe that traditional pedagogy provides law firms and other legal institutions with graduates all too willing to engage in levels of competition far in excess of that required by the needs of good lawyering and disciplined work habits. If legal education can be "humanized"—and without being wildly optimistic we think it can—why cannot the same be done for the practice of law?

from the course, it was the knowledge that he had the power to form such a group if he wanted to do so.

The discussion reverted to talk of a recent hearing in which Arthur had participated. During the conversation, Arthur said, "That hearing was the most exhilarating experience of my entire life. What felt so good about it was that I felt in control of the situation. And what made it especially nice was that the hearing officer complimented me . . . oh, my God, I just did it again."

Phil said that before today the remark would have slipped by Arthur unnoticed; that it was a sign of growth that he had been able to catch himself so quickly. Phil also remarked that dependence on approval from a judge was an especially dangerous trap in lawyering. Some discussion of that point ensued.

GROUPS

There is really no functional distinction between work done within the context of the supervisory relationship and the work of the group meetings which constitute the "classes" at MHLS. Although the issues that arise in each are similar, the interpersonal and group dynamics that characterize the larger meetings make them demanding environments to work in and to describe. Group metings have an undeniable *commedia dell' arte* quality of characters in search of an author, of interns and supervisors improvising with respect both to case-related developments and to group and individual learning agendas in order to advance the goals they have for themselves and for the clinic.

Organizationally, the theme of these meetings is a search for leadership and workable decision-making processes; intellectually, the thrusts are to hone legal skills, to increase insights into relationships with clients, adversaries, and judges, and to practice strategic and tactical planning; interpersonally, the purposes are to come to terms with others in a group setting while achieving one's own ends, and to make sense of the supevisor's role; emotionally, the point is for interns to contend with the tensions of experiential exercises, self and group evaluation, and sharing feelings with their peers and supervisors.

These dynamics always compete for attention, and at times they reinforce one another. Different issues emerge within a particular term, and from one term to the next. Much depends on the behavior of MHLS's institutional adversaries, the peer relations of clinic members, and the supervisors' ability to work well together in planning, monitoring, and evaluating their own behavior, and in feeding back their insights into the life of the group.

The first three weeks of these group meetings are dominated by the need to orient interns to the work and to introduce them to their cases and clients. During this period the supervising attorneys divide the meeting time between meetings of the full staff group and smaller meetings of the three nine-person supervisory groups. They present what amounts to a mini-course on the work of the clinic: providing an overview of the institutions with which the interns will come in contact, taking interns step-by-step through selected cases from the files, playing tapes of interviews and hearings, distributing sample documents, and lecturing about and role-playing some of the interviewing and counseling issues that interns will confront early in the term. We distribute manuals describing in great detail the law and practice governing representation of clients before the New York City Housing Authority and the Department of Consumer Affairs. However, our goal during these sessions is not primarily to convey specific information. Rather, we hope to give interns an overview of the variables that affect outcome; a sense of some of the resources available to them; and a conception of how their planning, their initiatives, and their reactions can affect a case as it moves from the initial lawyer-client contact through the legal system.

Although the supervisors are responsible for the content of these initial sessions, they make it clear at the outset that when the three-week orientation is over, the entire group will have to take responsibility for its work; nothing more has been pre-planned for the six hours of weekly meeting time. Interns are encouraged to plan the next stage. In our experience, interns do not believe that law school teachers will walk into a "class" with nothing planned, and they do not take any steps to organize the use of the meeting time until the session after the orientation period ends, when the supervisors sit on the carpet with everyone else and are silent.

Generally there ensues a period of two to three weeks in which group metings are not only chaotic, but emotionally very intense, as interns confront, for the first time in law school, the difficult tasks of assigning leadership among peers, developing their own learning plans, negotiating competing proposals for an agenda, and analyzing ways to use the clinic's resources for their purposes.[19]

[19] Compare the experience reported by Tenenbaum, *Carl R. Rogers and Non-Directive Teaching, reprinted in* C. ROGERS, ON BECOMING A PERSON 299, 301, 304 (1961):

> The class was not prepared for such a totally unstructured approach. They did not know how to proceed. In their perplexity and frustration, they demanded that the teacher play the role assigned to him by custom and tradition; that he set forth for us in authoritative language what was

The only constraint imposed by the institution is the rule that everyone must attend the two three-hour sessions. Interns are free to decide, for the rest of the semester, how to split their time between the large staff group and the three supervisory groups. They are also free to create other groups; but in our experience, the task of choosing among only two obvious options has proved to be astonishingly difficult (although other groups, such as women's groups or test case groups, have tended to form outside of the regular meeting time). The task of the interns is typically made even more difficult by several factors:

1. We do not impose a decision-making principle. The interns must decide whether the group is to make decisions by a rule of a majority, a special majority, a consensus, unanimous consent, or some other principle. Similarly, we do not urge the group to operate according to parliamentary procedure or any other system. Typically, a few members will urge that the group adopt some familiar decision-making and procedural model, but this proposal will lack unanimity, and interns will express confusion (amid much talk of social contracts) about how to adopt an orderly decisional system without initial unanimity.

2. Most members of the group usually resent the supervisors' decision to thrust so much responsibility on them, but they are unable to express this resentment at first. A few members will be actively hostile, despite the informational meetings, to the use of law school time for this kind of work. When this view is expressed, we generally make observations about how important we have found organizational and committee work in our professional experience; but the resentment is emotional, not intellectual, so our response is unsatisfying.

3. Although some members of the group are likely to propose various organizational schemes (usually preferring to break up into the smaller supervisory groups, rather than remaining in the large

---

right and wrong, what was good and bad. . . .

. . . .

By the fifth session, something definite had happened; there was no mistaking that. Students spoke to one another; they by-passed Rogers. Students asked to be heard and wanted to be heard, and what before was a halting, stammering, self-conscious group became an interacting group, a brand new cohesive unit, carrying on in a unique way, and from them came discussion and thinking such as no other group but this could repeat or duplicate. The instructor also joined in, but his role, more important than any in the group, somehow became merged with the group; the group was important, the center, the base of operation, not the instructor.

staff group), few of them will offer substantive items for an agenda (*e.g.*, "I want to concentrate on strategic case planning, which I could work on more effectively in a smaller group."). Until a substantive agenda is agreed upon, it is hard for advocates of either small groups or the large group to persuade others that their preferred organizational plan would be best. A stalemate develops, increasing frustration.

4. Although the large staff group is more terrifying to most interns than the more comfortable supervisory groups, every semester a few interns argue for spending most of the time, or at least some time during each meeting, in the large group. Some are enticed by the challenge of what most regard as a monster. Some (such as would-be courtroom lawyers and politicians) prefer to act in front of a larger audience because their learning agendas include working on public performances. Eventually, most interns acknowledge the necessity of meeting from time to time in the large staff group, in that MHLS is a single institution to which their clients' fortunes are tied. They reason that since they are all performing in the same forums, they should all share their important experiences (for example, a negotiating tactic that proved successful with a common adversary or a motion that a hearing officer would be inclined to treat with respect). Furthermore, any intern can set precedents that could help or hinder any other intern's case; therefore, advance knowledge of one another's cases is important. Once this sharing function of the staff group is acknowledged, other functions emerge: the institution may be able to plan a coherent strategy that will benefit everyone's clients, or an expert from the Civil Liberties Union might valuably speak to the entire group. After a while, the interns recognize that, despite their initial desire to flee from the staff group into smaller knots, they probably should spend a substantial amount of their time in plenary meetings.

5. Often, a few interns are disrespectful of others in the staff group: they walk around, they do not listen, they interrupt, they make unnecessarily acerbic remarks about their fellow interns; and sometimes, to protest the ponderousness with which the staff group tends to move, they walk out. The staff group typically has great difficulty talking about and dealing with this problem, and it often takes weeks before the problem is even acknowledged.

6. The supervisors try to be helpful by offering observations about the dynamics of the group, but these are often misinterpreted

as directions. For example, if the group had been discussing a plan to authorize one or two interns, on its behalf, to meet with the director of the Housing Authority, and had left unclear the scope of its representatives' authority, before the group went on to another subject, a supervisor might point out the difficulty that this failure might eventually cause for the representatives and for the group. Usually, such an intervention would cause the group immediately to begin discussing the issue raised by the supervisor, thereby leaving its current discussion dangling. The supervisor might respond by saying that it was not necessary for the group to drop its other work just because the supervisor had made an observation; and that, indeed, by showing undue deference to such remarks, the group inhibited the participation of supervisors, who feared being forced into the role of leaders. (This remark might in turn lead to a hot debate between those who wanted the supervisors to resume their leadership of the group and those who wanted to continue to struggle with issues of peer leadership.)

7. The staff group is a challenge for the supervisors, too. They spend hours discussing its development, among themselves and with interns. (The supervisors often discuss the large group, or other aspects of the clinic not involving the problems of particular interns, while sitting in one of their offices with the door open. An announcement is made on the first day of the seminar that when the door is open, interns may wander in to observe or to join in the discussion.) In the staff group, supervisors try to assume the role of equal participants whose views are evaluated on their merits, and are not given special treatment merely because they come from persons vested with authority. But that task is made immensely difficult because of the preconceptions that most interns hold about faculty members. Its difficulty is compounded by the fact that at least some of our "power" is real, and not merely imagined by the interns. For example, although we have foresworn grading, we cannot, in justice to the interns with whom we spend so much time, refuse to write letters of recommendation. Nevertheless, we attempt to make interns view us as persons who can help facilitate their work and their objectives, rather than as persons who dictate those objectives to them.

Despite these burdens, interns gradually begin to demonstrate competence in staff group meetings. They exercise leadership, passing it around as different issues arise; delegate tasks; create subgroups to solve particular problems or to implement decisions; and develop more efficient information-sharing techniques. Al-

though while they are still enrolled interns generally regard the staff group as the single most unsatisfactory experience in the clinic, some have told us after they began their work as lawyers that they wished they had spent *all* of their meeting time in that setting. From our perspective, the staff group is as necessary as it is vexing. Despite the unwieldiness of group work, we believe that lawyers should have the opportunity to learn the difficulties of working in institution-wide settings. The staff group presents interns with a novel and treacherous context, but one in which the payoff for success is learning how they can have an impact upon institutional policy. On balance, we think the pain is worthwhile.

Groups: Example 1

In the third meeting of the semester, while the supervisors were still conducting their orientation mini-courses, Holly delivered a lecture to the staff group in which she sought to convey the flavor of the Housing Authority litigation process. She began by describing some of the questions she would ask herself about any public housing eviction case: what does the client want? what does the Authority want? who is the client? what can the Authority prove? what can the tenant prove? what is the likely disposition? Then she went through the file of the *Murphy* case step by step, distributing copies of key documents to group members, and played an edited tape of the actual hearing.

Murphy involved the Housing Authority's efforts to evict a tenant and her son on the basis of two charges: first, that the son had used abusive language to a Housing Authority policeman who had told him to leash his dog; and secondly, the more serious claim that the son had broken into a neighbor's apartment and stolen a television set. Holly announced that the intern and Mrs. Murphy had consented to the use of the tape. She then played the tape, which lasted about forty-five minutes and included portions of the direct and cross-examination conducted by an intern from a previous semester. After the tape was finished, the interns discussed certain procedural questions raised by the case. No comments were made about the performance of the intern, although much could have been said on this subject.

After a coffee break, the interns and supervisors reconvened in the three small groups. Mike's group began discussion by directing several informational questions at him. After Mike had answered them, there was a pause. He said, "Well, the remaining time can be used in any way we want to use it."

At that point, Robert stated that he was quite concerned about the issue of confidentiality. First, he was troubled by the fact that MHLS interns apparently could go to the Housing Authority's central office and inspect a tenant's confidential file even before they had actually met the tenant. Even if he received the tenant's telephoned authorization, Robert said that he would never make such an inspection, except in an emergency. Second, he was troubled by the use of the *Murphy* tape.

"Do clients consent to our playing this tape in the group?" he asked. "Are we even sure that they know we are students?"

Robert's remarks produced a number of excited responses. One intern pointed out that Holly had announced that Mrs. Murphy had consented, but that Robert had not heard her. Several interns agreed that it was wise to see clients first, but others pointed out that the initial interview might be far more productive if the interns already knew what was in the Authority's files. Robert revealed that he and his partner had a case in which, to date, they had been unable to contact their client by telephone, and that they had struggled for a week with the issue of whether to look at the file. Charley couldn't understand why the group's practice of sharing case material should cause any problem, in that MHLS was just like a law firm, whose confidentiality rules apply only as against the outside world. Linda suggested that all materials in the office be sanitized, and that last names be removed. Barbara said she trusted the interns' ability to discern those special cases requiring strict confidentiality.

Mike suggested that, in order to generate some data for discussion, they role-play a conversation in which the group would try different ways of obtaining consent from a client. Robert agreed to play the client, and Mike took the role of the lawyer.[20]

Mike said something like this: "I'm a third-year law student who is permitted by the New York courts to represent you, without charge, under the supervision of lawyers. There are twenty-four of us and, while I will be in charge of your case, we all meet and share information about these cases in order to learn and to help handle your case better. If you want me to be your lawyer, I will. The first thing I'd like to do is to see your file at the Housing Authority downtown, so I can know what sort of information they have about your case."

Robert jumped out of his role to comment, "I'd say, 'Yes, go ahead.' But how would you know if I really understood?"

[20] Later in the semester, Mike would have waited to see if interns would play both roles, rather than playing one of them himself.

"Well, let's try another approach." Mike then repeated much the same material but asked Robert frequently whether he understood. He also tried to describe how tapes of interviews and hearings were played before groups. After each thought, Mike asked Robert if he understood, if he consented, and if he was sure.

The second run-through consumed far more time. There were several digressions while Robert, as the client, looked perplexed. "I see the point," he said, "but I still think that office policy could protect confidentiality more."

Mike agreed: "Indigent clients don't really have a choice of counsel, and this means we should pay more attention to confidentiality in order to protect their interests."

"On the other hand," Barbara added, "they really have very little freedom to consent or not. They come here and want help quickly. And they don't want to hear all this talk. They will nod and nod because it is on *your* agenda, but they really want you to get to theirs."

Time was up, but Mike felt that the discussion could have gone on much longer. He was satisfied with the work of the group: everyone who spoke had been articulate; and while there had been differences, they had been handled in a spirit of problem solving. A role play had helped to sharpen the discussion.

In reviewing the meetings, however, the supervisors discovered that all of the interns had expressed considerable concern about the issue of confidentiality. One intern in Phil's group, for example, had asked whether a lawyer who found the word "confidential" stamped on his client's Housing Authority folder should not divulge the file's contents, even to his client. The supervisors then tried to connect the interns' concerns about confidentiality with the large group's failure to evaluate the performance of the intern in the *Murphy* tape. After some discussion and reflection, we concluded that the interns had been conveying two related messages, one directly and the other indirectly. In the discussion of confidentiality they had expressed real feelings about pertinent issues important in their own right; but they had also been indirectly expressing anxieties about their own competence at their upcoming first hearings, and about the evaluation that would follow. The supervisors found this an important insight. They had planned to play a videotape of a student interview at the next large group meeting; instead, they redesigned the class to deal with issues relating to criticism, especially self-criticism.

Groups: Example 2

Soon after their first hearings, Linda and several other members of the group had expressed a desire to learn more about how to cross-examine; but work on this subject had never commenced.

Halfway through the semester, eight interns and Mike sat in a circle. Sam reminded Linda that she had wanted to work on cross-examination. Linda responded somewhat tartly by asking Sam if he wanted to work on cross-examination. Sam shrugged, "Sure." No one spoke.

The silence was broken when Linda's partner Rob described the case of Emmet, their teenaged client, who had been charged by the Housing Authority with sexually molesting a twelve year old girl, and who faced eviction if convicted.

"The problem," said Linda, "is that the girl has a history of epilepsy, and we don't look forward to the task of examining her." At an earlier hearing Rob had angered and excited a witness he was cross-examining "when I wanted to"; he was afraid that he would do so again "when I don't want to." The problem was "complex," Rob said, because "the girl's testimony will be the only competent non-hearsay evidence of the incident," and "I may have to break her down."

The group asked Rob several questions about the case. Then Hank told about his cross-examination of a police officer who had used the opportunity to elaborate on his direct testimony in a manner that further hurt Hank's case. "Somehow I couldn't control him," Hank said. Bill mentioned that he expected to have the same problem as Rob in a case in which all four potential adverse witnesses were under twelve years of age.

Mike was trying to decide how he could help the interns work on the issues they had identified. First he considered the content of their remarks, the identities of those who spoke, and the manner in which they spoke. He then recollected his own feelings about and experience with cross-examination, and his observation of the interns in actual hearings. Having done this, he decided to suggest an exercise: "Do you want to play a game that might teach us something about cross?"

There were a few giggles. Facial expressions suggested that the group was both curious and wary, as is often the case when an experiential event or role-play is in prospect. But several interns immediately asked Mike what he had in mind.

Mike elaborated. "What I've been hearing suggests that one problem you all are having with cross-examination has to do with

your experience of aggression or assertiveness. Suppose you divide into groups of four and do some questioning of each other, and see what happens. Rather than asking questions about a case, which would require people to learn a complex set of facts and which would be complicated by your playing the part of someone else, we could focus the questioning on events which are already a part of everyone's experience. For example, the questions could be aimed at learning how you have experienced our work in this group for the last eight weeks, and the questioner might try to be as aggressive as possible without being hostile."

Ted asked how the exercise would help him learn about cross-examination. Mike responded that he wasn't at all sure that it would, but "the problems that we talked about earlier have to do with aggression. There seems to be a fear that you will either be too aggressive, frightening witnesses when you don't want to appear hostile, with the result that the hearing officer turns against you; or too timid, signalling the witness that he can use his testimony as a weapon against your clients. Rather than working on the strategy and tactics of a particular case, which is something we have done before, I wonder whether we might work on the dynamic of aggression."

Phyllis asked whether Mike saw any differences between hostility and aggression, and if so, what those differences were. But before Mike could answer, Linda said forcefully that she didn't mind asking questions, but that she wasn't sure she wanted to answer them. The group then discussed whether anyone would be hurt by what the "witnesses" said. Ted said that he just couldn't predict what would happen, but that much would depend on how the questions were asked and how the "testimony" was delivered. Sam was skeptical that the game would teach them anything about cross-examination, but said he wanted to try it anyway. The discussion turned to who should be in each group. Linda said that she didn't want to be with her partner.

Phyllis observed, "If we divide the room right where Mike is sitting, none of the pairs would end up together." There was some joking about why the partners weren't sitting next to each other. Rob wondered aloud why "we are reluctant to work on aggression and hostility with our partners." After the meeting, an intern came to Mike privately and informed him that "all the aggressive people are in one group of four."

The group decided that the game would take place at their next meeting, three days later; Mike was asked to prepare some ground

rules.[21] At the next meeting the group was unusually slow to assemble. The "aggressive people" were slowest to appear. Mike read the following rules:

The Cross Game

Learning about cross-examination might be advanced by giving, taking, and observing something that is variously called "aggression" or "hostility." Aggression may be defined as attack. It is a tool that may or may not advance your interests; that may or may not be controlled. It is instrumental. Hostility, however, is a feeling. I think one can act aggressively without feeling hostile, and can feel hostile without acting aggressively. The confusion between the two concepts is an apt metaphor for one of the problems of cross—how does one cross aggressively without conveying hostility? We also might be interested in how hostility is communicated; in the effects of hostility; and in how it feels for each of you to be aggressive or hostile, and to receive aggression or hostility.

So the purpose of this game is to experience, manage, and define the differences between hostility and aggression; to share our feelings about experiencing, managing, and defining this difference (or its absence); and to see if we can arrive at any generalizations from the game that help us with cross-examination.

Each group of four will consist of two players and two observers. One player will be a questioner and the other will be a witness. Q's task is to find out how W feels about what has occurred in the small group work to date, and to probe aspects of W's feelings that Q believes are not fully expressed. Q should be as aggressive as possible but not hostile.

Q may begin this game by asking how W has experienced the small group; how W feels about his experience; what W intends to do about his feelings; and what, if anything, W would like Q to do about W's feelings. But these questions are merely suggestions; they can be modified at will and, in fact, W can ask questions of Q if he or she wants to. The dialogue will continue as the players wish, until time is called by the supervising attorney, that is, about ten minutes later.

---

[21] We regard an intern's request that we design an exercise, or help interns design one, as an excellent use of our experience and skills as teachers.

> The role of the observers is to gather information and impressions that will assist the group in understanding what occurred. The observers give feedback to the players, but they can also receive feedback about the helpfulness of their comments.
>
> After time is called, the players exchange roles and the game is played again. After time is called again, the group discusses what occurred. Then the observers assume the role of players, and the game begins again. When the second round ends, both groups of four will meet together to share and compare their experiences and to evaluate the game as a learning tool.
>
> I suggest that before we begin, each member give a moment's reffection to his or her goals: what you want to accomplish, focus on, and test in this exercise.

While the game took place, Mike circulated from group to group; he spoke only to keep the participants aware of the time. He was surprised at how quickly the players seemed to have become committed to their roles; but he was unsure of the accuracy of his observations, since he felt that his presence influenced the players' behavior. Whenever he entered the room, the pace of the dialogue between the questioner and the witness seemed to slow; statements became more matter-of-fact. Later, during the discussion period, Mike asked whether his perceptions had been accurate.

The group confirmed his impressions. Ted observed that "it looks like you're an authority figure no matter what you do." Phyllis thought that "the presence of authority seems to make us less aggressive or hostile, or both."

The players then related their experiences with the game. Rob reported that he and Phyllis held a heated dialogue about the small group meetings, and that it had satisfied them both, "because we began to understand each other for the first time." Phyllis nodded. Rob believed that "the understanding may have come from the fact that she started asking me questions very soon, even though I was the designated questioner. At first, I thought the game wouldn't help me with cross-examination, because in court I wouldn't have to answer the witnesses' questions. But now I think that the point is that a witness who feels intimidated—who knows that the questioner is in charge, and that she can't ask him any questions—will probably be defensive and uncommunicative, unless the questioner takes some steps to reduce the feeling of threat."

Sam's experience of the game showed him that issues could be probed aggressively without arousing too much hostility. But in a

real hearing, he added, "it might not be so; here everyone was too invested in peace and harmony."

Ted agreed. He worried about expressing too much hostility and, therefore, "didn't really probe the witnesses' views. I was pussy-footing around because I didn't want to be disliked, and so I found out very little."

Bill, who had been observing Ted, then added: "But when I pointed that out to you after your examination, you seemed irritated and defensive."

"It would have been easier for me to accept what you were saying," Ted commented, "if you had said that you *felt* I was defensive, rather than stating it as if it were an objective fact."

At this point the group began to laugh. Sam said, "We are beginning to talk like Mike."

"You know, I really enjoyed this," Rob remarked. "Though we are being trained to be assertive advocates, the student role tends to be non-assertive. I feel inhibited from expressing myself for fear of losing acceptance, especially from peers. This leads to a kind of emotional withdrawal. I guess the exercise shows that I have to deal with my fears of criticism in order to be assertive."

Phyllis asked Rob if he wanted some feedback on his examination of her; Rob said that he did. Phyllis then told him that she thought he was being far more hostile than the words he had used implied: "I was listening to the statements implied in your seemingly neutral questions."

Rob disagreed, but Phyllis cut him off: "You disagree with what?"

"I mean I didn't *feel* hostile," Rob clarified. "I'm not saying that you didn't experience me as hostile."

Mike asked if the two interns who observed Rob and Phyllis had anything to offer.

Sam responded that he thought Rob was irritated by the fact that Phyllis didn't always answer the question Rob had asked.

Linda's eyes lit up: "That's exactly what threw me off at my last hearing. I asked a question and the cop answered the question he wanted me to ask, rather than the one I had asked. He did that twice. I was so upset that I never asked the hearing officer to instruct him to answer my question. After that, the examination got out of hand."

When the group's meeting time was almost over, Mike asked each intern to write a brief memo reporting any generalizations about cross-examinations that the interns felt able to make on the

basis of the exercise, and evaluating the game as a vehicle for learning. One memo included the following comments:

> The exercise presented us with an opportunity to experience two ideas: that we have a choice as to how to conduct an examination, and that hostility isn't necessarily inherent in cross. I knew these conclusions mentally before; now I think I have an emotional understanding of them. The game was valuable because it helped me see how professional roles and personality are connected—how they flow into and out of each other. I do think it would have been an even better learning experience if I had paid more attention to what I wanted from the particular witness, and to the obstacles in my way. I think the discussion of the exercise would have been more productive if the group had focused on three questions: Did you get what you wanted? What within you helped you to achieve your goals? What within you interfered with their achievement?

Groups: Example 3

Part 1

Just before the spring break, Phil's small supervisory group was floundering. The group was united only by unanimous intern feeling (though with varying intensity) that spending time in the large staff group was increasingly intolerable, because that group spent so much time discussing how it was going to discuss something, or what to discuss, without doing anything. The group also felt that too much time was spent in the small group discussing "what we are going to discuss," or such abstractions as "goals." (Phil thought, however, that the small group had actually spent very little time discussing goals, and that it could learn to express goals, plan agendas, and resolve conflicts if it chose to do so.)

At its last meeting before vacation, the small group decided that for at least the next two meetings it would refuse to spend any time in the staff group. It delegated one member to announce that decision to the staff group, and it instructed him as to how to make the announcement. It then considered whether there was anything that could happen in the staff group meeting that would cause any member to reconsider what the small group regarded as a secession from the staff group; and, if so, how the small group could caucus to deal with such an occurrence if it arose. It also attempted to

decide what the group wanted to do during its next two scheduled sessions, each three hours long. Although the group felt in part that its agenda did not really matter, in that *any* sustained work done successfully would be satisfying, nevertheless, there was a spirited debate about future activity. For a while, the discussion proceeded in terms of methods, such as role plays, or listening to tapes. Then Phil said that he was puzzled by the apparent assumption that the group could agree on an activity without explicitly formulating and agreeing on goals. After predictable groans, the group agreed that it needed to talk about goals, and so it scheduled a session on goal definition as the first order of business after vacation.

The first two hours of the next meeting involved a canvass of the group, a discussion, and a vote. The canvass began with the usual "skills improvement" suggestions: more exercises on negotiation and on hearing skills. Someone then asked Phil for other ideas. He pointed out that lawyers spend only a small fraction of their time on dispute resolution, and that the largest part of their time was probably devoted to counseling, a skill which they had never worked on in the small group, although they had counseled clients in cases. Phil's suggestion did not end the canvass; an intern proposed working on "problem solving," which he defined as enabling a lawyer to think of all available options without the assistance of peers or supervisors. Although one intern questioned the premise that it is desirable to reduce collaboration in lawyering, several others agreed that they would like to become less dependent on peers and more able to devise "solutions" by themselves.

Eventually someone called for a vote, and the group promptly voted without agreement on a voting procedure, or a clear indication of who could vote, or a description of the alternatives. The vote produced a tie between counseling and problem solving, but there were several more votes than there were people in the room. Phil pointed out the absurdity of voting under these circumstances: several people had voted for more than one option, while others thought they were limited to a single vote. Moreover, the vote might have come out differently if the alternatives had been described more specifically; for example, if "problem solving" had been broken down into the two different variants suggested before the vote.

The group then discussed how to break the impasse. Eventually they decided to work on counseling for a couple of weeks, then switch to problem solving. The session was almost over, and they

turned to Phil to help them design a way of working on counseling. Phil suggested the following:

1. The members should read chapters three and four of Thomas Shaffer's *Legal Interviewing and Counseling;* [22]

2. Members of the seminar should form groups with other members for real counseling about a real "quasi-legal, quasi-personal" problem that they currently or had once faced. Each member had to be either a counselor or a counselee, but each could do as many exercises as he or she wanted, and could work in both roles. Counseling sessions could be one-on-one, two-on-two, one-on-two, or two-on-one; a counselee could seek counsel from several others, sequentially. The only constraint was that people could not seek counsel from their partners.

3. Each session should be about one-half hour long, and should be taped. At least one group should videotape its session. After each session, counselor(s) and counselee(s) should replay the tapes together, selecting appropriate portions, illustrative of the issues covered, that could usefully be played for the entire small group.

4. Interns should take responsibility for bringing their experience to the small group in a way which allowed the group to learn from it.

At the following session, the first intern to present a tape had participated in three counseling sessions in two and one half days. She planned to present excerpts from all three tapes, as she had a theory of how each experience had affected the following one. Interest was so intense, however, that she never got past the first tape's excerpts; and even so, almost everyone in the group felt frustration at the fact that the excerpts presented more issues than could adequately be covered in a single discussion. The problem was compounded because the intern presenting the tape kept pressing on from one issue to another, so that the group never treated any one of the issues in satisfactory depth.

The counselee on the tape said that she had a job offer from a nice law firm that did the kind of work she wanted to do. The problem was that this small firm was located a ninety minute commute away from New York City, and she wanted to stay in the city. She had, therefore, accepted an offer from a big New York firm that she didn't like as much. She wanted, however, to preserve the option of going to the small firm in two years. The partner

22 T. SHAFFER, LEGAL INTERVIEWING AND COUNSELING IN A NUTSHELL (1976).

who had made her the offer was one with whom she had a good personal relationship, and she didn't know what to say to him without jeopardizing their friendship, to convey that, although she was rejecting the offer now, she hoped that he would keep it open for two more years. Her task was made particularly difficult because he had told her, whether jokingly or not, that based on what she had said earlier in the year he had already told the firm that she had accepted its offer.

A discussion of these issues ensued:

1. The intern first played her initial statement of the problem to the group, then stopped the tape and went around the room and required each member of the group to state what he or she thought the real problem was. Every member had a totally different opinion! One thought that she had deeper relationships with people from the two firms than she had indicated and wanted to hear more about that. Another thought she was really ambivalent about which job to take, and wanted counsel on that problem. After going around the room, the counselee revealed that not one person had correctly identified her real problem, though one had come close. Her real problem, on which she wanted counsel, was precisely what she had said it was: she didn't know *what to say* to the small firm partner, and she wanted strategic advice on how to phrase her response to him.

2. During the "interviewing" segment of the session, while groping to learn "the real problem," the counselor kept asking, in a suggestive way, "Is the real problem that you don't know which job you'd be happier in?" and other such directed questions. He never asked an open-ended question, such as, "What's troubling you the most about this situation?" It was as though he thought he could discern and distill the problem better than she, and needed her only to confirm his conclusion.

3. Similarly, the counselor kept making specific suggestions for action, and the counselee kept fending off these suggestions, either by overtly rejecting them or by changing the subject. She didn't realize that she had been doing this until later, when they listened to the tape together.

4. The counselee told the group that when she had requested a different counselor's help on the same problem, the counselor had identified her "real" problem, and had restated it better than she

had. He then ignored it for the rest of the session, while repeatedly asking her what the real problem was. As a consequence, she felt insulted.

5. The group believed the counseling session had been successful, because the counselor had made the counselee realize that her problem was in fact deeper than she had believed it to be—that she was in fact ambivalent about the offer. But the counselee rejected this group view, saying that she felt the session was a failure because she never got what she wanted: advice on what to say to the partner. Phil and others pointed out to her that the counselor might not be able to advise her on the level she wanted without first exposing deeper levels of the "onion." Speaking to the partner would be in some ways irrevocable, and before doing so, she might need to know what else was at stake. But the counselor had not expressed, either to her or to himself, his need to probe deeper.

6. The group perceived that counseling is sometimes necessarily a multi-session affair, thus exposing a weakness in this particular format, which was designed as a single-session exercise.

7. Halfway through the meeting, the intern playing the tape remarked that the half of the group which had already completed its own counseling exercise was participating in the discussion much more actively than the half which had not done so.

Part 2

Because the previous small group meeting had been flawed by the choppy quality of short recorded excerpts, the group welcomed an intern's suggestion that they share the data of an entire counseling session, rather than listen to excerpts. Furthermore, this intern had videotaped his session, so the group could watch as well as listen. The videotape lasted twenty-five minutes, but it was stopped frequently; the session lasted well over three hours.

The counselee in this session brought to his counselor an actual problem with which he had been struggling for two years. When the problem began, the counselee had been living with his mother and father. When the father discovered a few of the son's marijuana cigarettes in the house, he immediately wrote a letter to his wife saying that he was leaving home and never returning unless his son (the intern) was excluded from the house. The mother told the intern about his father's letter; the intern then left the house and remained totally cut off, emotionally and financially, from his

father. He had weathered grave financial crises by working full-time during law school, but had never come any closer to reconciliation with his father. He occasionally visited his mother and grandmother when his father wasn't home; during these visits, he stayed with neighbors. His father, meanwhile, refused even to allow his name to be spoken. When the intern tried to see his father at his office, the father refused to speak to him, and instructed his staff to throw the intern out of the office. His mother regarded the schism as an immense family tragedy, but was unable to do anything about it.

Like the first counseling session that the group had observed, this one began with a fair amount of stumbling around, during which the counselor attempted to find out what aspect of the problem the counselee really wanted help on. For the first third of the session, the counselor guessed wrong, and proceeded on the unverified premise that the counselee really wanted help in making his mother feel better. Accordingly, he suggested various plans of action, all of which the counselee rejected. When the tape was stopped, Phil asked the counselor whether he had consciously decided to suggest options for action, as opposed to either asking the counselee what options he had already considered (which could have more clearly revealed the paramount problem), or asking the counselee how he wanted to work. The counselor first replied that his method of work had been deliberately chosen; but the counselee challenged this statement, leading the counselor to change his response.

Eventually the counselor perceived that the paramount problem was how to effect a reconciliation; the counselee wanted one, and also believed that as he grew older, and perhaps moved away and never saw his father again, he would increasingly regret not having made greater efforts to obtain one. The counselor made several suggestions, which were rejected. He then advised the counselee to write his father a letter. He cautioned him not to assign any blame to his father in the letter, but to say instead that a reconciliation would be beneficial to the suffering mother. The counselor explained that in his "amateur psychology," he viewed the father as extremely defensive, and he thought that any attempted reconciliation would have to allow the father to "save face" and not admit error. The counselor alluded to a role-play six weeks earlier, in which Phil, playing an intern, had attempted to obtain a stipulation from an adversary by deliberately revealing weakness rather than strength.

Two things happened at once. First, the counselee's face broke out into a broad smile. (However, the counselor saw this smile for the first time on the videotape; at least, he did not recall picking it up in the counseling session.) Second, the counselee continued to reject all suggestions, including this one, although gradually, over a period of minutes, it became clear that he was taking this suggestion very seriously. It was also apparent that, although the counselee had asked dozens of people for advice over a two-year period, no one ever before had made this suggestion.

When it seemed clear that the counselee was really considering the suggestion and agreeing with its premise, the group stopped the tape to consider why the counselee still claimed to reject it. Phil asked whether the counselor himself had put the counselee in the position of having to "lose face." That is, within fifteen minutes the counselor had come up with a solution that had eluded the counselee, who was much more directly involved in the problem, for more than two years. Furthermore, the plan had been presented as the counselor's work rather than as the counselee's or as a shared product. How could the counselee easily concede that his peer could "solve" his personal problems so much better than he could?

This suggestion stunned the group, including Phil, who realized that a year or two ago, before his experience as a learner in the clinic, he could not have had this insight. The counselee immediately confirmed that Phil's observation had uncovered at least one major source of his resistance. The other group members reflected on and reevaluated their experiences with real clients who had resisted *their* advice. The discussion became very animated.

One intern took the issue a big step further. Looking inward, he reported that either because of attitudes that they brought with them to law school, or because of those inculcated by their legal training, lawyers needed to believe that they were the problem solvers; or, at least, that they deserved a lot of the credit for problem-solving. While he was learning the importance of shared problem-solving, he believed that neither he, nor lawyers in general, could totally relinquish their role as problem-solver, even when greater client control might be more beneficial. Lawyers would have to know, at the very least, that their skills played a major role in discovering solutions to their clients' problems. Otherwise, lawyers would lose interest in counseling.

At this point, the counselee reported the aftermath of the counseling session. He had asked his mother's advice about the proposal, and she had replied that she thought that this plan, unlike the others

he had tried, might work. He was now composing the letter, and he felt like writing a "thank you" letter to the counselor (who joked, "That'll be forty dollars."). The feeling in the room had the quality of a religious revival, with the cripple restored. The group was astonished; it seemed that a "mere role-playing exercise," which some had thought was the clinic's most ivory-towered teaching technique, had effected the possible resolution of an intern's very serious personal "case."

Next, Phil suggested an analogy, drawn from the work of Gary Bellow,[23] between interviewing/counseling and learning: that traditional legal education, which granted the teacher major responsibility for classroom learning, was like the model of counseling in which the counselor took over the counselee's problem and solved it; and that the clinical model resembled a counseling session in which all parties shared the work, the learning, and the problem-solving. Perhaps the interns carried more learning away when they had shared the work and the responsibility in this way, than when they merely took notes on what the teacher had said or wrung from his students.

Still, the videotape had not ended. There was a coda. Those in the room now knew (from the counselee's description of the aftermath, including his call to his mother), that the "solution" had been accepted, and that implementation had begun. The tape had hinted at this result, with the counselee saying what he intended to do. But now that the interview was drawing to a close, both parties began talking as if they had accomplished nothing, as if no solution had been worked out; and the counselor suggested that the counselee see a psychologist or psychiatrist for help with his problem. The group was amazed. The counselor protested that they should not be amazed; that he was not competent to give advice of the kind he had been giving, at least not without a second opinion from an experienced professional. (This counselor was one month away from being a law school graduate and a legal services lawyer.) The group observed that although his sentiments and caution were admirable, for many of his clients he would in fact be the last stop; his counseling would be the only professional advice they would get. The meeting adjourned on this note of forced confrontation between the interns about to graduate and the awesome responsibility that would soon be thrust upon them.

---

[23] Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology* in CLINICAL EDUCATION FOR THE LAW STUDENT, *supra* note 17, at 374.

Part 3

At its next session the group decided to continue work on counseling. Instead of reviewing a tape of interns counseling interns, the group listened to the tape of an initial interview, in which a pair of interns counseled a client in a Housing Authority case. The supervising attorney and the student supervisor had suggested that the interns involved share their experience with the group. They agreed, although of course, they were not required to do so. Throughout the session, one of the interns responded to requests from group members to hold the tape or to replay segments in order to facilitate discussion.

The client, Ms. Rome, was threatened with eviction for possession of a dog, in violation of the Authority's rules. When she had first called her intern/lawyer, Alan, he told her on the telephone that if she wanted to avoid eviction, she would have to get rid of the dog. He then scheduled an interview.

During the first half of the interview, Ms. Rome talked volubly about how unfair it was that she had to get rid of her dog, while many of her neighbors continued to keep theirs. The interns advised Ms. Rome to get rid of the dog before the hearing, which was barely a week away. The interview was centered around the impending eviction. The interns did not probe the client's feelings about the dog itself, even though she had said at one point that she would rather have the dog put to sleep than just left on the street or given to someone who would mistreat it. From there, however, the interview had shifted back to the hearing itself: Alan had asked for her home telephone number and for a copy of the charges.

While they were looking over the charges, the client began to cry. The interns struggled for an "appropriate" response. One asked her if she needed a tissue; she had her own. Both partners tried to suggest to Ms. Rome that things were not as bad as they appeared to be. Each, however, premised this suggestion upon an hypothesized definition of the client's problem. Thus, one assured her that the Housing Authority was not merely selecting her for discriminatory action: "We get a lot of these cases." Alan asked whether there was something more she wanted to tell them. When she kept sobbing, Alan's partner again offered, "I wouldn't feel that they are picking on you."

Then Alan said, "I think that you won't be able to keep the dog, and I think that in terms of what's bothering you . . . that can be eliminated by finding the dog a home, rather than putting it to sleep." Ms. Rome protested that she didn't know anyone outside

of the project who could take care of the dog. Alan suggested putting signs up in the neighborhood. There was a long pause. Alan added that if she wanted him to help make signs, he would do so. She kept crying.

"You want to try that?" he repeated.

"We only got a week," she moaned.

"It's better than not trying at all," he suggested. "So, suppose we sit down for three or four minutes and write up a sign."

There was a long pause.

"Do you want to try that?"

She nodded assent.

For the next fifteen minutes, Alan, his partner, the two supervisors, and the client all worked together making and copying signs to advertise the dog. The client supplied most of the information; Phil provided felt-tip pens for emphasis; Alan did the writing; and his partner made xerox copies. By the end, Ms. Rome left, smiling, with a stack of signs to post in her neighborhood; Alan was to post an equal number around the university.

The group analyzed the first half of this interview as it had the other counseling sessions: that is, largely in terms of whether the lawyer or client was or ought to be controlling the flow in the interview, and whether the lawyer was or ought to be expanding "the issue" beyond the client's definition. But the client's "crisis" distinguished this case from the others the group had considered. Her crying had changed the entire tone and course of the interview. It also had precipitated a dramatic change in Alan, who had begun the relationship with his client by brusquely telling her on the telephone that she would have to get rid of her dog, and who now felt that he had outgrown three years of law school role-conditioning by hand-lettering posters for his client.

The group provided many perspectives on what could have been done at the moment of surprise. Someone noted that both interns had responded essentially by asking questions and trying to find out why the client was crying, rather than by comforting her with a statement such as, "It's all right to be upset." He also noted that the crying had cleared the air and made creative work possible; before the incident, the client seemed to view the problem only in the lawyers' terms. Yet the feeling in the room during the group meeting was anything but critical of Alan and his partner; group members all recognized that chance had selected this pair for a difficult experience, not previously encountered by other interns in the group.

Another issue that emerged was whether it was proper for the interns to confront their client's feelings about her dog (as opposed to limiting their work solely to the issue of the eviction). One intern said, "It's not the lawyer's job to help her adjust to the loss of her dog." But others pointed out that even those lawyers who work exclusively in the "business" world often handle cases involving emotional issues, or at least issues which require them to go beyond "the law," by doing things such as referring a client to another type of professional. Finally, still other interns suggested that the problem was not how to build human responses (such as helping the client place her dog, or sympathizing with her loss) into the lawyer's role, but how to be a lawyer without letting the lawyer's role inhibit one's natural, human responses.

Conclusion

We think that we have found a method and a principle by which clinical legal education can offer far more to students than the "skills training" that students and faculty often stereotypically regard as its sole purpose. Our goal is to offer a high level of legal service to people who would otherwise be unrepresented, while simultaneously maintaining an environment in which every aspect of legal work can be the object of the most painstaking planning, reflection, and review. We aim, also, to help students learn about their personal capacity to influence the character of their work lives, and of their continuing education. We believe that our students can become professionals who are both competent and satisfied that their work reflects their personal values; we seek to help them accept responsibility not only for their legal work, but for the shape of their professional lives. The clinic gives them opportunities to experiment with different approaches and outcomes, and to learn about their evolving professional selves.

To achieve these objectives, we believe that student interns must be given primary responsibility for representing the clinic's clients. Furthermore, they must have the opportunity, through the staff group, to accept responsibility for significant aspects of institutional policymaking. Concomitantly, faculty supervisors must view themselves, and be viewed by interns, more as resources than as decisionmakers. Thus, they must avoid taking on roles or entering into relationships with clients, potential witnesses, or adversaries that would undercut intern responsibility; and they should be willing to subject their own work to intense criticism and to explore with

interns all aspects of the supervisor-intern relationship. Indeed, a significant focal point for learning is the interplay between the interns' professional role, their expectations concerning the supervisors' role, and their past experiences with authority roles.

In the clinic we ask students to be responsible for the representation of clients and for setting their own learning goals. We offer ourselves as helpers whose experience as lawyers and teachers and whose information about the problems of lawyering constitute valuable resources, rather than definitive guideposts. We provide an institution which functions both as a support system and as a forum offering students an opportunity to learn from their experiences with supervisors, fellow students, clients, adversaries, witnesses, and decisionmakers. We believe that professional development is enhanced by working and learning in such an environment, in which a lawyer functions not only as an individual playing a professional role, but also as a whole person who happens to be representing clients.