

Golden Gate University School of Law GGU Law Digital Commons

Publications

Faculty Scholarship

2010

A “Sending Down” Sabbatical: The Benefits of Lawyering in the Legal Services Trenches

Stephen A. Rosenbaum

Golden Gate University School of Law, srosenbaum@ggu.edu

Suzanne Rabé

University of Arizona James E. Rogers College of Law

Follow this and additional works at: <http://digitalcommons.law.ggu.edu/pubs>



Part of the [Legal Education Commons](#)

Recommended Citation

60 J. Legal Educ. 296 (2010).

This Article is brought to you for free and open access by the Faculty Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in Publications by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

A “Sending Down” Sabbatical: The Benefits of Lawyering in the Legal Services Trenches

Suzanne Rabé and Stephen A. Rosenbaum

Introduction

Legal writing classes and clinics differ from traditional law school doctrinal courses. This difference is necessary and intentional. The small class size and practical curricula in these non-traditional settings foster both active and cooperative learning. Using hands-on, realistic assignments, these writing and clinical classes prepare students for the challenges and realities of practicing law. Creative, intelligent, and with a focus on professionalism and service, these experiences teach the nuts and bolts—and soul—of lawyering.¹ In the

Suzanne Rabé is Director of Legal Writing and Clinical Professor of Law, University of Arizona James E. Rogers College of Law. Professor Rabé teaches courses in writing, analysis, and persuasive communication. The authors thank Laura M. Pasqualone and Nichole L. Rowey, College of Law Class of 2010, for their valuable research assistance.

Stephen A. Rosenbaum is Staff Attorney, Disability Rights California. Mr. Rosenbaum, who coordinates the Bay Area office’s externship program, is also a Lecturer in Law at the University of California, Berkeley School of Law and Stanford Law School, where he teaches social justice skills and other courses on civil rights, disability, mental health advocacy, and cultural competency.

1. On the pragmatic value of classes in legal writing, *see, e.g.*, Roy Stuckey and Others, Best Practices in Legal Education: A Vision and A Road Map 109 (Clinical Legal Educ. Assn. 2007) (positing that legal writing courses “aid the students’ understanding of theory and doctrine, sharpen their analytical skills, improve their understanding of the legal profession and in some instances cultivate their practical wisdom”); William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* 107–11 (Jossey-Bass 2007) [hereinafter “*Educating Lawyers*”]. On the value of clinical classes, *see, e.g., id.* at 121–22, 159–60 (“Clinics can be a key setting for integrating all the elements of legal education as students draw on and develop their doctrinal reasoning, lawyering skills, and ethical engagement.”); Becky L. Jacobs, *A Lexical Examination and (Unscientific) Survey of Expanded Clinical Experiences*, 75 *Tenn. L. Rev.* 343, 362 (2008) (“Participation in a law school clinic instills a sense of professionalism in students that cannot be learned or experienced in a classroom environment or stimulated setting.”).

law schools of the new millennium, many clinicians,² including an increasing number of legal writing and skills professors, are tenured or on a tenure track³ and, thus, eligible for sabbaticals. With astonishingly few exceptions,⁴ however, most of them engage in traditional legal scholarship pursuits during their academic intermissions. No doubt, some clinicians are dogged by questions that are best answered by conventional commentary.⁵ Others may pursue traditional scholarship in an effort to gain credibility with their

2. This article uses the term "clinician" to include clinical law professors as well as legal writing and other skills professors. Similarly, we believe the word "clinical" in its broadest sense encompasses any practical, service-learning, or experiential education or training offered to law students; this includes in-house, live-client legal services settings, classroom simulations, and supervised field placement or externship for academic credit. *See, e.g.*, Mission Statement, Clinical Legal Education Association, <http://www.cleaweb.org/about/mission.html> (last visited May 25, 2009) ("Clinical methodology includes supervised representation of clients, supervised performance of other legal work, and the use of simulated exercises in a variety of settings, both within law schools and outside of them, and is designed to teach skills and values necessary to the ethical and competent practice of law."); Applied Legal Education: A Short History and Definition, Center for the Study of Applied Legal Education, <http://csale.org/appliedlegaleducation.html> (last visited May 25, 2009) (including live-client clinics under the supervision of a faculty member who is also a licensed attorney as well as "off-site" field placement programs in which students are simultaneously taught and supervised by law school faculty and practicing lawyers). *See also* University of California Hastings College of Law, Clinical Programs, <http://www.uchastings.edu/academics/clinical-programs/index.html> (last visited Feb. 4, 2009) (describing clinics comprised of in-house and out-placement clinics, externships, and skills-based simulation courses). Regrettably, while there is legitimate pedagogical debate within the academy about what constitutes the best experiential model for preparing future lawyers, it is sometimes manifested in a divisiveness and competitiveness between "live clinic" and "skills" clinicians and between those favoring in-house, as opposed to field placement clinical models. This only serves to further marginalize an already marginalized faculty of experience-based legal educators and does little to foster collegiality and collaboration.
3. The clinicians who initially set up clinical programs were not always perceived as serious educators by other academics. Richard A. Boswell, Keeping the Practice in Clinical Education and Scholarship, 43 *Hastings L. Rev.* 1187, 1187-88 (1992). But, as they began to push for a place within the academy, clinicians urged the American Bar Association to implement a standard that would require law schools to provide them with employment security and economic equality with traditional faculty. *Id.* at 1188. On the increase of tenured clinicians in law schools, *see, e.g.*, Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, Clinical Education for This Millennium: The Third Wave, 7 *Clinical L. Rev.* 1, 31 (2000) (presenting data on growing numbers of tenured and tenure-track clinicians); James J. Fishman, Tenure: Endangered or Evolutionary Species, 38 *Akron L. Rev.* 771, 787 (2005) (arguing that tenure should be more inclusive of all full-time law faculty).
4. *See, e.g.*, Stacy Caplow, A Year in Practice: The Journal of a Reflective Clinician, 3 *Clinical L. Rev.* 1 (1996) (describing a veteran clinician who takes sabbatical as a litigator at the Office of the United States Attorney); Okianer Christian Dark, Transitioning From Law Teaching to Practice and Back Again: Proposals for Developing Lawyers Within the Law School Program, 28 *J. Legal Prof.* 17, 36 (2003-04) (describing a law professor who returns to practice after ten years to work as an Assistant United States Attorney).
5. *See* Boswell, *supra* note 3, at 1190 (observing that clinical scholarship has fallen into two broad categories: doctrine of jurisprudence and the work of clinicians).

colleagues and the academy.⁶ Finally, the demands and expectations of the tenure-track process—even a modified clinical tenure track—may impose a duty on clinicians to produce customary scholarship.⁷

This article joins the small chorus of those offering a different vision.⁸ Simply, we propose that clinical and skills professors, and legal writing professors in

6. Douglas Colbert observes that “senior faculty and administrators expect tenure-track clinicians and activists to publish according to traditional legal academic criteria, namely, heavily footnoted law review articles in ‘respectable’ law journals.” Douglas L. Colbert, *Broadening Scholarship: Embracing Law Reform and Justice*, 52 *J. Legal Educ.* 540, 542–43 (2002). *See also* Erwin Chemerinsky, *Why Write?*, 107 *Mich. L. Rev.* 881, 882 (2009) (“Doing pro bono work—even handling high-profile cases—does not, at this point in the history of legal education, bring much in the way of status or advancement.”); Dark, *supra* note 4, at 36 (calling for more law schools to encourage the production of legal scholarship “that both the legal academy and the bar value,” regardless of whether it fits “traditional notions or definitions of scholarship”).
7. *See* Boswell, *supra* note 3, at 1190 (observing that recent clinical scholarship is written for “the academic audience of tenure, namely the review committee that considers the clinician for renewal, tenure, or hire”); Patrick A. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 *Minn. L. Rev.* 705, 750 (1998) (“In today’s academy—particularly in the elite schools—the predominant message communicated to newly appointed faculty is that tenure will depend mostly, if not entirely, on scholarship, and that one’s teaching will not even factor into the decision unless it is so bad as to provoke student rioting.”). Statements made by law schools suggest the primacy of traditional scholarship in awarding tenure, although few law schools state this officially. Report of the AALS Special Committee on Tenure and the Tenuring Process, 42 *J. Legal Educ.* 477, 488 (1992). On the other hand, service as a component of tenure evaluation is “relegated to minor status at most schools.” *Id.* at 491. Of course, this analysis doesn’t even begin to account for the way non-tenure track or adjunct faculty are evaluated for merit or continued teaching, where typically neither scholarship nor community service are explicitly considered. *See, e.g.*, University of California, Berkeley-American Federation of Teachers, Memorandum of Understanding: Non-Academic Senate Instructional Unit, art. 22 (Oct. 3, 2007–July 31, 2010), available at http://atyourservice.ucop.edu/employees/policies_employee_labor_relations/collective_bargaining_units/nonsenateinstructional_nsi/contract_articles/article22.pdf (describing merit increases based on “academic attainment, experience and performance,” which is in turn determined by departmental review procedures).
8. *See, e.g.*, Caplow, *supra* note 4, at 2 (“A return to practice in order to learn how to be a better practitioner should enable any clinician to teach practice better, and with more sophistication.”); Amy B. Cohen, *The Dangers of the Ivory Tower: The Obligation of Law Professors To Engage in the Practice of Law*, 50 *Loy. L. Rev.* 623, 643 (2004) (encouraging law professors to participate in legal practice to become better teachers, better scholars, and more appreciative representatives of the legal profession); J. Timothy Philipps, *Building a Better Law School*, 51 *Wash. & Lee L. Rev.* 1153, 1160 (1994) (asserting that law professors should use sabbaticals to engage in legal practice, which will allow them to bring their experiences to the classroom); Edward D. Re, *Law Office Sabbaticals for Law Professors*, 45 *J. Legal Educ.* 95, 97 (1995) (proposing law firm sabbaticals for law professors with no prior practice experience in order to “narrow the gap” between the academic law teacher and the practicing attorney); Dark, *supra* note 4; Gary S. Gildin, *Testing Trial Advocacy: A*

particular,⁹ consider practicing law—in real-life, non-clinical settings—during some significant portion of their sabbaticals from teaching.¹⁰ With few, if any, costs, this proposal would foster a richer engagement by clinicians and legal writing professors with the world of practice and infuse new enthusiasm into law school classes.

Moreover, this experience in practice holds promise to (a) improve the learning experience for students in clinics and writing and skills classes; (b) offer a vital public service to the under-represented; and (c) improve the overall administration of justice.

This article explores each of these ideas from the authors' personal and professional perspectives. Suzanne Rabé, a director of legal writing, recently spent three months of a one-year sabbatical working in the Oakland office of California's Protection and Advocacy, Inc., or simply PAI,¹¹ the largest organization in the nation advocating for the civil rights of people with

Law Professor's Brief Life as a Public Defender, 44 J. Legal Educ. 199 (1994) (describing a trial advocacy professor who spends his sabbatical serving as an assistant public defender); Michael A. Mogill, Professing Pro Bono: To Walk the Talk, 15 Notre Dame J.L. Ethics & Pub. Pol'y 5 (2001) (describing a law professor who spends his sabbatical serving the indigent at a legal service office).

9. This "refresher" experience is less important for the clinician who functions as a day-to-day supervisory attorney in a live-client, off-campus clinic than for the professor who is cabined in the classroom or in a clinical setting that does not exhibit the characteristics of a private or government law office.
10. See Caplow, *supra* note 4, at 53 (urging law professors, particularly clinicians, to take advantage of their "flexible lifestyle" and participate in a sabbatical-in-practice). Before and during the Chinese Cultural Revolution, Communist Party Chair Mao Tse-Tung encouraged the practice of "sending down" urban intellectuals to the countryside to learn from the masses, particularly the peasants. The analogy to the law professor who gets her hands "dirty" in a legal services practice is admittedly glib, but perhaps captures the spirit of the social and personal transformation inherent in this kind of working sabbatical. See Selected Works of Mao Tse-tung, vol. IX Directives regarding cultural revolution (1966-69), available at http://www.marxists.org/reference/archive/mao/selected-works/volume-9/mswv9_84.htm; *id.* at July 30, 1966 ("My wish is to join all the comrades of our party to learn from the masses, to continue to be a school-boy."). The Carnegie Foundation team also employed a Maoist metaphor when it alluded to the "Long March" to the center as part of the effort to shift law school away from the overly theoretical to an emphasis on teaching negotiation, legal writing, and clinical experience and skills. Educating Lawyers, *supra* note 1, at 91.
11. Part of the national protection and advocacy system, the non-profit legal organization receives federal funding to represent individuals with disabilities in obtaining their service, legal, and human rights. See 29 U.S.C. § 794(e); 42 U.S.C. §§ 10801 *et seq.*, 15041 *et seq.* (2000); Calif. Welf. & Inst. Code § 4902(a). Although it was renamed Disability Rights California in its 30th anniversary year, the unauthorized "Style Manual on Nostalgia" allows affectionate references to the organization by its former colloquial name, PAI. See Disability Rights California, <http://www.disabilityrightsca.org/about/history.htm> (last visited Feb. 4, 2009). The name change reflects a general trend amongst the "P&A" entities, to give the public a clearer sense of their mission. Thus, the "forces of [rights-based] advocacy" trump the "forces of protection." Stephen A. Rosenbaum, Hammerin' Hank: The Right to Be Raunchy or FM Freak Show?, 23 Disability Studies Q. 165 (2003), available at <http://www.dsqsds.org/article/view/432/609>.

disabilities.¹² Stephen Rosenbaum, a staff attorney who also teaches law part-time, was her supervisor and mentor during those three months.

Improving the Learning Experience for Students

Clinical professors practice law along with their students throughout the academic year. And, legal writing and skills professors are often drawn from the ranks of experienced practitioners.¹³ Despite these connections with the practice of law, which typically exceed those of many of their doctrinal colleagues, clinicians report becoming more and more removed from the realities of the day-to-day practice of law in a firm, government agency, or non-profit organization.¹⁴ They do not bill hours. They do not pound the pavement for clients. They generally do not report to a senior partner or even a supervising attorney. Their law school setting creates little concern for the bottom line.¹⁵ Most importantly, cases handled in some clinics can be simple, fairly routine matters that can be concluded within a semester.¹⁶ Unlike their clinical colleagues, the legal writing professors—who often do create complex

12. A word about language: The recently ratified United Nations Convention on the Rights of Persons with Disabilities refers to “persons with disabilities,” a term generally favored in the United States for its “people first” emphasis. G.A. Res. 61/106, 76th plen. mtg., U.N. Doc. A/61/611 (Dec. 06, 2006), available at <http://www.un.org/esa/socdev/enable/rights/convtexte.htm>. On the other hand, in New Zealand, for instance, where the delegation to the U.N. played a major role in drafting the Convention, the Human Rights Commission uses the term “disabled people. See Human Rights Commission, <http://www.hrc.co.nz/home/default.php> (last visited Feb. 4, 2009). See also K. Diesfeld, M. McLean, T. Phelan, P. Patston, W. Miller-Burgering & R. Vickery, *The Challenge of Designing Optimum Legal Services for Disabled People: the New Zealand Experience*, 23 *Disability & Soc’y* 431 (2008). Individuals involved in “dis-lexical” discussions over the years claim equal preference for both terms.
13. By contrast, most law faculty, particularly at elite schools, have very little lawyering experience. See, e.g., *Educating Lawyers*, *supra* note 1, at 89 (expounding on the standard pool of candidates for legal academia). The demand for “more ‘relevant’ learning experiences” and the blossoming of clinical and other experiential learning can be traced to the 1960s and 1970s and the changing student body. See, e.g., Douglas L. Colbert, *Professional Responsibility in Crisis*, 51 *How. L. J.* 677, 705 (2008).
14. See, e.g., Cohen, *supra* note 8, at 623 (“I was spending my career preparing students for a world that was more and more removed from my daily existence and memory.”).
15. See Dark, *supra* note 4, at 37 (encouraging more law schools to better prepare students to handle the real stresses and time pressures of legal practice).
16. See, e.g., Mark Neal Aaronson, *We Ask You to Consider: Learning About Practical Judgment in Lawyering*, 4 *Clinical L. Rev.* 247 (1998) (describing how cases at the Hastings Civil Justice Clinic are chosen primarily based on the “likelihood of start-to-finish experience with respect to a specific legal proceeding within a semester”); Katherine R. Kruse, *Biting Off What They Can Chew: Strategies for Involving Students in Problem-Solving Beyond Individual Client Representation*, 8 *Clinical L. Rev.* 405, 439-40 (2002) (describing the limits of instruction in the typical semester or in year-long clinics); University of Notre Dame The Law School, *Our Legal Services*, <http://law.nd.edu/legal-aid-clinic/our-legal-services> (last visited Feb. 4, 2009) (expounding on the types of cases accepted at the Notre Dame Legal Aid Clinic).

appellate problems for their moot court and appellate advocacy classes—rarely, if ever, appear in court, counsel clients, or prepare transactional documents for use by live clients.

It would be unthinkable for a medical professor of surgery to be removed for years at a time from the operating room.¹⁷ By some quirk of history, however, it has become routine for law professors, even those who teach the nuts and bolts of lawyering, to be removed—sometimes for decades—from the law firm or the courtroom.¹⁸ The authors’ experience, told here through dual narratives, reveals how periodic exposure to practice within a law office setting can have long term benefits for classroom instruction while enriching practitioner colleagues in the short term.

Suzanne Rabé: My April 2007 arrival in the East Bay brought back many memories. Over twenty-five years before, I drove from my home in Arizona to Berkeley to assume a one-year legal writing position at Boalt Hall.¹⁹ While there, I sat for the California bar exam. When my year was up, I returned to Arizona where I practiced at Southern Arizona Legal Aid, primarily in

17. This was not always the case. One early 20th century Carnegie Foundation study concluded that there was an “enormous overproduction of uneducated and ill-trained medical practitioners.” Henry S. Pritchett, Introduction, in Abraham Flexner, *Medical Education in the United States and Canada*, Carnegie Found. Bull. No. 4 (1910). A few years later, the Carnegie Foundation had documented a dearth of practical training in the leading law schools. *Id.* at 91. The situation had not improved much by the late 20th century. Re, *supra* note 8, at 97. For more on the medicine and law training analogy, see *Educating Lawyers*, *supra* note 1, at 97, 115.
18. Given this detachment from practice, it is no surprise that law schools have long been criticized for not adequately preparing students for legal practice. David Wilkins wrote over fifteen years ago that “the absence of faculty with a serious interest in, and understanding of, legal practice is one of the primary reasons why the academy has failed in its ethical obligation to study and teach about the profession.” David B. Wilkins, *The Professional Responsibility of Professional Schools To Study and Teach About the Profession*, 49 *J. Legal Educ.* 76, 92 (1999). And on law schools’ ineffectiveness in preparing law students for the profession, see, e.g., Stuckey, *supra* note 1, at 18 (“Law schools are not producing enough graduates who provide access to justice, are adequately competent and perform in a professional manner.”); *Educating Lawyers*, *supra* note 1, at 145 (claiming that legal education focuses disproportionately on developing the academic knowledge base to the exclusion of developing necessary practical skills and professionalism); Alex M. Johnson, Jr., *Think Like A Lawyer, Work Like A Machine: The Dissonance Between Law School and Law Practice*, 64 *S. Cal. L. Rev.* 1231, 1233 (1991) (noting that legal educators, with their increasing orientation away from law and the practice of law, are failing to adequately prepare students to practice law); Schiltz, *supra* note 7, at 785 (asserting that law professors must do more to mentor and prepare students to enter the legal profession ethically).
19. The law school has since been re-anointed as “Berkeley Law.” The renaming flowed from “a positioning exercise with three interrelated objectives: to simplify use of [the law school’s] multiple names, to create a distinctive and coherent design for the school and its affiliates, and to orchestrate [its] communications activities to boost awareness and esteem among all audiences critical to [its] success.” See University of California Berkeley Law, Memorandum from Dean Christopher Edley (Apr. 24, 2008), available at <http://www.law.berkeley.edu/identity/edley-letter.html> (last visited Feb. 4, 2009).

the areas of immigration, prisoners' rights, and public benefits.²⁰ After seven years of practice, I joined the faculty of the University of Arizona College of Law as a part-time legal writing instructor. Twenty-five years later, as the full-time Director of Legal Writing and Associate Clinical Professor of Law, I was bound²¹ for the Bay Area again to practice disability civil rights law on my very first sabbatical.

Several months before, I had been in touch with staff attorneys at Protection and Advocacy, Inc. over a legal issue that had arisen regarding my son, a student with disabilities attending college in the Bay Area.²² I was impressed—in fact, bowled over—with the phenomenal help PAI provided to my son and to me as one of his advocates.²³ As I contemplated my sabbatical, I concluded that my teaching would be enriched by volunteering as an intake attorney/paralegal at PAI.

Stephen Rosenbaum: Suzanne initially approached me about apprenticing²⁴ with our law office, in part, to learn more about the substantive field of disability law, her interest having been stimulated by Joe's recently acquired disability. She saw this as a potential opportunity to understand in practical terms the Americans with Disabilities Act²⁵ and its precursor, the Rehabilitation Act

20. Southern Arizona Legal Aid is a non-profit organization funded by the Legal Services Corporation, the United Way, the Interest on Lawyer Trust Accounts program, and other funding sources. It provides free civil legal services to low-income persons. *See* Southern Arizona Legal Aid, <http://www.sazlegaid.org> (last visited Feb. 4, 2009).
21. Students in "Disability Consciousness 101" soon learn that "bound for California" is acceptable, whereas "wheelchair-bound" is not. Likewise, it is one thing to be "confined" to a classroom and quite another to be "confined" to a wheelchair. Typically, one begins a stint in a disability organization un-learning terms like "wheelchair-bound," "handicapped," "suffers from" and "retarded." *See, e.g.*, Patricia A. Massey & Stephen A. Rosenbaum, Disability Matters: Toward a Law School Clinical Model for Serving Youth with Special Education Needs, 11 *Clinical L. Rev.* 271, 285-94 (2005) (discussing concept of "dis-awareness"). For more specific "dis-lexicon," *see, e.g.*, American Psychological Association, Guidelines for Non-Handicapping Language in APA Journals, <http://www.apastyle.org/disabilities.html> (last visited Feb. 4, 2009); Life Span Institute, Guidelines for Reporting and Writing about People with Disabilities, <http://www.lsi.ku.edu/~lsi/aboutus/guidelines.shtml> (last visited Feb. 4, 2009).
22. Joe, who was injured in a high school basketball incident, enrolled as an undergraduate at nearby Stanford University in 2005, where he founded an advocacy and support group for students with disabilities. *See* Heather Heistand, Sophomore Heads Up Group for Students with Disabilities, *Stan. Daily*, Feb. 2, 2007. *See also* Christine Foster, Boy Interrupted, *Stanford Magazine*, Jan./Feb. 2005.
23. Staff Attorney Diana Honig was very helpful in assisting Rabé and her son with the academic accommodation process. Among the organization's advocacy principles are: "The client chooses the outcome and the method of achieving the outcome and...actively participates in every stage of the process." Disability Rights California, Advocacy Principles, <http://www.disabilityrightsca.org/about/advocacy.htm> (last visited Feb. 4, 2009).
24. *See* Educating Lawyers, *supra* note 1, at 185-86 (lauding a conscious apprenticeship approach by law schools in the intensive socialization, professionalization, and values-shaping of law students).
25. 42 U.S.C. §§ 12101 *et seq.*

of 1973.²⁶ I saw her involvement as a chance to benefit from the input and output of a seasoned lawyer, but, as I did not know Suzanne, I could not fully appreciate at the outset the efficiency and empathy she would bring to our office.²⁷ I did know, however, that I would relate to her more as a "colleague" than her "supervisor and mentor."

Rabé: For three months, I volunteered full time in the organization's Oakland office.²⁸ I arrived at 9:00 a.m., and most days I left long after 5:00 p.m. Here and there, I edited some documents²⁹ and drafted some initial pleadings, but by and large, I served for three months as a full-time intake paralegal. I interviewed the bulk of the special education clients, sometimes as many as ten a day. After consulting with Steve and the other special education attorneys in the office, and often after undertaking legal research and investigation, I communicated advice to the clients³⁰ whose cases were not turned over to an attorney for full representation. I had a tremendous amount of client contact, something I had not experienced in my many years of full-time legal writing instruction.

Because I was handling special education cases, my intake interviews were primarily with parents and always involved disability law questions. The parents were often at their wit's end after pursuing other avenues to obtain educational services for their children with disabilities—or as others described them—"special needs"³¹ children. The parents were searching for appropriate

26. 29 U.S.C. §§ 701 *et seq.*

27. I decline to refer to what more trendy writers call a "skill set."

28. The office serves persons with disabilities living in the nine-county greater San Francisco Bay area. In addition to conducting multicultural outreach and issuing a number of publications on subjects including special education, public benefits, treatment inside and outside residential institutions, employment and housing, the organization represents individual clients and classes in mediation, administrative hearings, and litigation. *See, e.g.*, Disability Rights California, Annual Report (2008), available at http://www.disabilityrightsca.org/pubs/Annual_Report_2008.pdf (last visited July 12, 2010). Most clients receive brief consultation or technical assistance over the telephone.

29. *See e.g.*, Restraint and Seclusion in California Schools: A Failing Grade (Protection & Advocacy, Inc. June 2007), available at <http://www.disabilityrightsca.org/pubs/702301.htm>.

30. There is some debate in the field of special education advocacy as to whether the client is the child or the parent, or both. *See, e.g.*, Kim Brooks Tandy & Teresa Heffernan, Representing Children with Disabilities: Legal and Ethical Considerations, 6 Nev. L.J. 1396 (2006). As a practical matter, most—if not all—communications are with the minor student's parent or guardian.

31. "Special needs" has long been a way to describe pupils receiving special education services. For some, it is more comforting than child with a disability or less euphemistic than student with exceptional needs. But, even this term can raise hackles on the dis-lexical circuit, as it did in 2008 when vice-presidential candidate Sarah Palin and her infant child with Down syndrome brought disability issues to the fore during the campaign. Lamented one activist

placements³² and educational technology³³ for their children with autism, Down syndrome, blindness, deafness, ADHD, and other disabilities. Through these countless interviews, I honed my interviewing techniques and learned much about the goals of PAI's clients. I saw how legal issues arose in the day-to-day lives of parents and children,³⁴ and I gained experience in spotting issues missed by the clients themselves. Many of the clients were low income, and I gained insight into the interplay of poverty and disability law.³⁵

Rosenbaum: While Suzanne describes her position as that of “intake paralegal,” I don't think that term accurately describes the role she played in the office. It is true that the scheme for interviewing a large number of callers in a wide geographic area requires a certain screening system. What was once an “intake coordinator” at PAI is now called an “information and referral advocate.” But, notwithstanding the glorified title, it is difficult to recruit and retain staff members who can independently and competently dispense information, make meaningful referrals, and engage in advocacy. It really requires experience, intuition, and judgment. And, I think that Suzanne's legal training and mindset—albeit tested more recently in the classroom than at the front desk—is what made her so valuable in that role. Moreover, she has a work ethic that has gone out of style. Few present-day law student clerks are willing

on the eve of the elections: “[I]t will take a long time for people with disabilities to rid ourselves of our new handle [of] ‘special needs’ people. It amazes me that there has not been a loud outcry by the disability rights community on this paternalistic description of us....” E-mail from Steve Gold, to “Steve Gold ADA mailing list” (www.stevegoldada.com) (Oct. 28, 2008) (on file with authors).

32. See 20 U.S.C. § 1414 (listing pupil evaluations, eligibility, individualized programs, and placements). For a primer on special education law and procedure, see, e.g., Cmty. Alliance for Special Educ. & Prot. and Advocacy, Inc., *Special Education Rights and Responsibilities* (9th ed.), available at <http://www.disabilityrightsca.org/pubs/504001SpecEdIndex.htm> (last visited Feb. 4, 2009); Stephen A. Rosenbaum, *Schools and Educational Programs*, §§ 5.01–5.02, in *AIDS and the Law* (4th ed., David W. Webber ed., 2008); Wendy F. Hensel, *Sharing the Short Bus: Eligibility and Identity Under the IDEA*, 58 *Hastings L.J.* 1147, 1152–79 (2007); Mark C. Weber, *Reflections on the New Individuals with Disabilities Improvement Act*, 58 *Fla. L. Rev.* 7 (2006).
33. One of the organization's funding sources is the grant for Protection and Advocacy Services Related to Assistive Technology. 29 U.S.C. §§ 3004 *et seq.*
34. Patrick Schiltz believes that a law professor with substantial experience in practice can learn to “see the law ‘in terms of people with names and faces and histories and personal struggles.’ That perspective—the unique understanding that comes only from living and working where the theory of the law meets the reality of the world—is a perspective that must be represented in the academy.” Schiltz, *supra* note 7, at 770–71 (citation omitted).
35. Although the protection and advocacy agencies have no socioeconomic restrictions, Disability Rights California gives priority to serving underrepresented clients, including low-income households. See Protection & Advocacy, Inc., *Advocacy Plan 2008–2012*, <http://www.disabilityrightsca.org/pubs/540201.htm> (last visited Feb. 4, 2009). See also Massey & Rosenbaum, *supra* note 21, at 281 (noting higher incidence of disability in low-income families); Mary C. Daly, *The Structure of Legal Education and the Legal Profession, Multidisciplinary Practice, Competition, and Globalization*, 52 *J. Legal Educ.* 480, 484 (2002) (documenting need for affordable legal services for poor and middle-class clients).

to burn the midnight oil. During Suzanne’s tenure at the office, we instituted a practice of engaging more paralegal staff in the “triage” of incoming calls and the monitoring of ongoing cases. This logistical and educational experiment has had mixed results in terms of increasing knowledge and improving efficiency.³⁶

Rabé: The knowledge, experience, and insight I gained at PAI has translated into better—and certainly more confident—teaching.³⁷ After twenty-five years away from real clients I had lost confidence when instructing students about interviewing, mediating, and even spotting issues and forming arguments.³⁸ But my experience at PAI has brought the client back into the center of the classroom.³⁹ For instance, after my return to campus, my second-year legal writing students were working on an appellate brief that had been adapted from an actual case in New York state involving a criminal defendant who had been observed opening the door of her apartment building to undercover narcotics officers at 4 a.m. When the students could not imagine an innocent explanation for the defendant even being awake at this hour, I was able to offer explanations that arose from my recent experience interviewing low-income clients in Oakland and San Francisco.⁴⁰ I encouraged the students to look at a problem through their own eyes and then through the eyes of their client. My PAI experience enriched the classroom experience as my students struggled to create arguments that would persuade an appellate court to view the facts from the perspective of the neighborhood where they arose. It is sometimes difficult for a legal writing professor—one who has been long absent from legal practice—to establish credibility with her students. The students

36. I have argued elsewhere that paralegals and lay advocates are capable of doing a great many things and that they should in fact be educated and trained alongside would-be lawyers. See Stephen A. Rosenbaum, *The Juris Doctor Is In: Making Room at Law School for Paraprofessional Partners*, 75 *Tenn. L. Rev.* 315 (2008).
37. Professor Stacy Caplow relates of her sabbatical-in-practice, “I relished...unknotting legal issues, strategizing, appearing in court, negotiating with an adversary, and was content simply to become a better practitioner. In addition to improving my own skills, I am now better equipped to teach about those skills.” Caplow, *supra* note 4, at 45.
38. Caplow notes that:

Too much time away from the more realistic arena of practice may dull our [clinicians’] real-world edge as we come to more closely resemble our traditional academic colleagues. Practitioners unquestionably approach cases, clients, and legal problems differently from academics, even clinicians. A sabbatical-in-practice provides a reminder of those differences and an occasion to sharpen our focus, update our knowledge, and maintain our credibility.

Id. at 2.
39. After spending his sabbatical as an assistant public defender, Gary Gildin concluded that law professors and educators must “try harder to prepare [students] for the surprises, the frustrations and even the despair that they will encounter when live clients replace the cadavers of the Case File.” Gildin, *supra* note 8, at 205.
40. Many of my PAI clients worked the night shift. With one or more children with disabilities, families pieced together childcare and transportation. Often one adult would work late nights when another adult—or an older sibling—could be home to take over childcare duties.

are facing a legal system far removed from the one that most experienced professors first entered.⁴¹ When students ask why a certain practice makes sense, when a certain motion is best filed, or how a client will respond to certain advice, recent experience with courts, clients, and even 21st century law office technology,⁴² can make all the difference in effectively communicating with students.⁴³

Serving the Under-Represented

The law school trinity is often described as teaching, service, and scholarship. Many clinics provide valuable services to the under-represented, and others work closely with judges and other lawyers to promote the administration of justice. Likewise, legal writing professors strive to model professionalism and encourage public service. Despite these lofty goals and the increased visibility of clinics and legal writing programs nationwide, a divide remains between the world of practice and the world of academics.⁴⁴ It is not unheard

41. See Bruce A. Green, Reflections on the Ethics of Legal Academics: Law Schools as MDPs; or Should Law Professors Practice What They Teach? 42 S. Tex. L. Rev. 301, 330 (2001) (“[S]ince law professors’ memories of their pre-academic experience may fade or become increasingly irrelevant as the nature of law practice changes, there may be reason to encourage law professors to dip their toes back in the water from time to time.”). On the changing legal profession, see, e.g., Jack T. Camp, Thoughts on Professionalism in the Twenty-First Century, 81 Tul. L. Rev. 1377 (2007) (discussing increased diversity, increased emphasis on civil rights, commercialization, competition, and the decline of client loyalty); Dark, *supra* note 4 (describing a law professor who returns to practice after ten years and observes intensified concerns about lawyer ethics, proliferation of Rule 11 motions, increased use of alternative dispute resolution, and new discovery challenges); Johnson, *supra* note 18, at 1249 (discussing the failure of law schools to inform students of the “radically changing nature of the legal profession”); David O. Nuffer, Preparing for Practice in 2010, 14 Utah B. J. 6 (2001) (discussing the changes occurring in the practice of law and expressing confidence that lawyers can meet the challenges ahead).
42. Professor Okianer Dark encourages law professors to familiarize themselves with changing technology and incorporate new technology into the classroom. Dark, *supra* note 4, at 35. For a discussion of how changes in office technology affect the practice of law, see, e.g., Jeanette Hamilton, The High-Tech Law Office: Beyond the Year 2000, 36 Ark. Law. 36 (2001).
43. See William R. Trail & William D. Underwood, The Decline of Professional Legal Training and a Proposal for Its Revitalization in Professional Law Schools, 48 Baylor L. Rev. 201 (1996) (“Student dissatisfaction with legal education is also attributable to the fact that students doubt whether their legal education has provided them with sufficient exposure to a number of skills crucial to the practice of law.”).
44. Court of Appeals Judge Harry Edwards believes that many law professors consider themselves “academics first and lawyers only by sheerest happenstance.” Harry T. Edwards, The Growing Disjunction Between Legal Education and the Legal Profession, 91 Mich. L. Rev. 34, 35 (1992). For more on the divide between legal practice and legal education, see, e.g., Educating Lawyers, *supra* note 1, at 89 (arguing that “education for practice” must be given a more central position within the legal academy); Stuckey, *supra* note 1, at 13 (“[L]aw schools are simply not committed to making their best efforts to prepare all of their students to enter the practice settings that await them.”); Johnson, *supra* note 18, at 1233 (observing that legal educators are increasingly orientating themselves away from law and the practice of law).

of for lawyers to speak negatively about their law school experiences.⁴⁵ Law school administrators struggle mightily to convince alumni of the wisdom of supporting the law school mission. A number of lawyers leave their law school buildings never to return; in the process, they learn little about the changes and innovations occurring in the academy. It is probably fair to say that law professors know far too little about the practice of law,⁴⁶ and practitioners know far too little about the changes in legal education. A simple response to this problem, and one that would also benefit the under-represented,⁴⁷ is for law professors, and especially those who teach lawyering skills, to work periodically among practitioners and judges. Because most law school policies prohibit faculty from using a paid sabbatical to earn a substantial salary elsewhere,⁴⁸ the vast majority of any sabbatical legal work would be on behalf of pro bono clients and public projects.⁴⁹

Rabé: PAI receives major funding from the federal government as well as State Bar Interest on Lawyer Trust Accounts, Equal Access funds, other grants, attorneys' fees, and donations.⁵⁰ Despite this funding, which supports

45. See Jason M. Dolin, *Opportunity Lost: How Law Schools Disappoint Law Students, the Public, and the Legal Profession*, 44 Cal. W. L. Rev. 219, 251 (2007) (describing the disengagement of students in their second and third years of law school); Johnson, *supra* note 18, at 1231 (noting that former law students express frustration with law school's failure to prepare them "for what the practice of law really requires."); Schiltz, *supra* note 7, at 767 ("Three years of law school left me—and many of my classmates—intensely cynical and skeptical.").
46. See Johnson, *supra* note 18, at 1240 (asserting that law professors fail to show interest in the changing legal profession); Educating Lawyers, *supra* note 1, at 29 ("[T]he relation between the academic life and the demands of practice is seldom as straightforward and logical as it is imagined to be by many of the [legal] faculty and administration.").
47. Studies have shown that the indigent are hopelessly under-represented. See Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans 8* (2007), available at <http://www.lsc.gov/justicegap.pdf> (noting approximately one-half of individuals who seek help from Legal Services Corporation legal aid providers are denied because of insufficient program resources); Deborah Rhode, *Access to Justice: Connecting Practices to Principles*, 17 Geo. J. of Legal Ethics 369, 371 (2004) ("[L]ess than one percent of the nation's legal expenditures, and fewer than one percent of its lawyers assist the seventh of the population that is poor enough to qualify for aid."). Providing affordable legal services to the middle class is also a growing concern. See, e.g., Stuckey, *supra* note 1, at 19 (attributing the legal profession's failure to provide access to justice partly to the shortcomings of legal education); Daly, *supra* note 35, at 484 ("Delivering affordable legal services to the middle class is a challenge that the legal profession has been unable to meet.").
48. See, e.g., Stanford University Faculty Handbook 3.1.B (2007), available at <http://facultyhandbook.stanford.edu/ch3.html> ("Total compensation during a sabbatical leave should not normally exceed the faculty member's full-time Stanford base salary for the leave period.").
49. See Mogill, *supra* note 8, at 15 (addressing the need for greater pro bono service by law professors in order to improve the quality of their teaching and the quality of justice).
50. See Disability Rights California, *History and Funding*, <http://www.disabilityrightsca.org/about/history.htm> (last visited Feb. 4, 2009).

a large staff, the legal services needs of many of PAI's clients go unmet.⁵¹ At the time I began my work with the organization, in 2007, one full-time paralegal handled all intake interviews for the Oakland office, which serves nine counties in central and northern California. This paralegal's workload was astounding, and the quality of the client interviews undoubtedly suffered.⁵² For three months, I handled all the special education intake interviews. These interviews ranged from five to fifteen per day and comprised approximately a quarter of the total intake interviews for the office. By limiting myself to special education clients,⁵³ I greatly increased my learning curve at the initial stages, thus becoming more valuable to the office in a shorter period of time. Had I attempted to tackle all substantive law areas of practice, my effectiveness over the long term would have increased. However, because my stay with the office was limited, the narrower focus seemed advisable.

During my time at PAI, I interviewed and relayed advice to hundreds of clients. I relieved the day-to-day advice-only workload of both lawyers and paralegals so they could focus on larger, longer term projects. I attended weekly case conferences where I presented my cases. I ate lunch in the employee lunchroom where I struck up friendships with lawyers, paralegals, and staff members. We talked about the practice of law, and we also discussed my work at the University of Arizona. Many times I heard comments such as, "You don't seem like a law professor" or, "You wouldn't see any of my professors volunteering like this."⁵⁴ My work increased the level of legal services that the office was able to provide in special education cases. My presence probably dispelled a few stereotypes about the academy and bolstered the connections that the practitioners felt with the academy.

Rosenbaum: Suzanne was able to spend more time on the interviews with callers and because she was only handling a quarter of the total calls, to provide more detailed and individually-tailored advice. This allowed for better screening and up-front service delivery, which was prompt and more intensive and responsive than the organizational norm. She brought energy, a new work style, and a new perspective on problems, whether on the phone or in case conference. Although these traits are peculiar to Suzanne, other veteran law professors have the same potential, whatever their past experience

51. See Disability Rights California, Help support Disability Rights California's work, <http://www.disabilityrightsca.org/about/donate.htm> (last visited August 30, 2010).

52. Under the dis-lexical protocol, this is a permissible use of the word "suffer." See *supra* note 21.

53. The education-related calls were by far the greatest number the office received. As much, or more, than legal consultation, the caller often needed practical advice and emotional support to get through the difficult processes. See, e.g., Stephen A. Rosenbaum, When It's Not Apparent: Some Modest Advice to Parent Advocates for Students with Disabilities, 5 U.C. Davis J. Juv. L. & Pol'y 159, 171-85 (2001).

54. Similarly, Caplow recalls of her sabbatical-in-practice, "My co-counsel fully accepted me and appeared to value the contribution I was making to the group effort. On an almost daily basis, we met in each other's offices to report, strategize, react, joke, and plan." See Caplow, *supra* note 4, at 39.

or current area of expertise.⁵⁵ Having a self-directed, outside professional in our midst also allowed us to consider new models of service delivery. One can always benefit from a disinterested—but, really interested—observer. For example, I believe that we do not make sufficient use of the paralegal skills of our law graduates and nonlawyer advocates in our intake and advice-and-counsel activities.⁵⁶

Improving the Administration of Justice

Law professors have the luxury of summers and sabbaticals to think and write about matters of importance in the administration of justice.⁵⁷ Too often, though, what is written is read primarily by others in the academy.⁵⁸ Judges and lawyers express increasing alienation from law review scholarship.⁵⁹ In the effort to be creative, cutting edge, and interdisciplinary, law professors may cut themselves off from those practicing in the field. Professors themselves express frustration that they write for a small audience and that much legal scholarship

55. See *id.* at 7 (describing a clinical law professor with a teaching and practice background exclusively in criminal law who spent a sabbatical serving as an Assistant United States Attorney (Civil Division), “hoping to learn about civil practice in federal court”).
56. See Rosenbaum, *The Juris Doctor Is In*, *supra* note 36, at 323–29 (asserting that paralegals and lay advocates are capable of handling certain aspects of special education cases and other legal matters).
57. Colbert notes that “with the benefit of periodic school breaks and the mandate to understand and teach an overview of the justice system, [law professors and clinicians] are able to share reflections with lawyers and judges, and advance the justice model in ways that practitioners and judges rarely have the opportunity to process for themselves.” Colbert, *supra* note 6, at 543; see also Caplow, *supra* note 4, at 53 (“Academics are fortunate that our lifestyles allow us to take advantage of opportunities to become involved in all sorts of projects apart from our daily responsibilities.”); Dark, *supra* note 4, at 35–36 (encouraging law professors to spend their research time creating scholarship that is useful to the bar).
58. See Boswell, *supra* note 3, at 1192 (claiming that new clinical scholarship is becoming less accessible to all groups, including judges and attorneys); Erwin Chemerinsky & Catherine Fisk, *In Defense of the Big Tent: The Importance of Recognizing the Many Audiences for Legal Scholarship*, 34 *Tulsa L. Rev.* 667, 671–74 (1999) (arguing that legal scholarship should be directed at wider audiences including judges, government decision-makers, students, and the general public); Dark, *supra* note 4, at 35 (observing that most law review articles are not read by the bar but by other scholars).
59. See Carissa Alden, Selina Ellis, Benjamin Lesnak, Joseph Mueller & Mary Catherine Ryan, *Trends in Federal Judicial Citations & Law Review Articles* (Benjamin N. Cardozo School of Law 2007), available at http://graphics8.nytimes.com/packages/pdf/national/20070319_federal_citations.pdf (studying five of the most cited law reviews and finding a sharp decline in federal judicial citation to law review articles after the 1980s that has continued in the present decade); Edwards, *supra* note 44, at 35 (“It is my impression that judges, administrators, legislators, and practitioners have little use for most of the scholarship that is now produced by members of the academy.”); Adam Liptak, *When Rendering Decisions, Judges Are Finding Law Reviews Irrelevant*, *N.Y. Times*, Mar. 19, 2007, at 8 (explaining that six judges for the U.S. Court of Appeals for the Second Circuit said in a lecture hall that law review scholarship no longer had any impact on the courts).

has little impact.⁶⁰ Given these concerns, it is puzzling that clinicians are following their doctrinal colleagues into the practice of using sabbaticals to produce traditional legal scholarship.⁶¹ If even some clinicians would enter the world of practice for a portion of their sabbaticals, some of this divide could be bridged. Fewer articles would address matters of little importance to practicing lawyers, and more articles would address issues that receive little publicity but often arise in practice.⁶²

Lawyers and judges see injustices and unfairness daily, and they ponder ways to improve the administration of justice. But few judges and lawyers have the time to gather data, research alternatives, and propose comprehensive change.⁶³ If the academy and the practitioners could communicate more effectively, and if law professors could see the inner, daily workings of the justice system, realistic, practical change could result.⁶⁴

Rabé: I interviewed parents of students with disabilities, and I relayed advice to them after consulting with staff attorneys. This experience, time and time again, pointed out to me the weaknesses in my own writing program's approach to teaching interviewing skills. In over twenty years of teaching legal writing and lawyering skills in first-year classes that directly address interviewing skills, I had never once discussed telephone interviews. I also had not discussed interviewing clients who are deaf, clients with brain injuries, or

60. See Kenneth Lasson, *Scholarship Amok: Excesses in the Pursuit of Truth and Tenure*, 103 *Harv. L. Rev.* 926, 928 (1990) (asserting that law review articles only attract a "sprinkling of colleagues who skim through off-prints out of courtesy" and a "handful of students who may wade through them because they've been assigned").
61. See Boswell, *supra* note 3, at 1191 (noting that most recent clinical scholarship emulates traditional scholarship).
62. See *id.* at 1194 (calling for clinicians to create "a more morally emphatic, living scholarship" that is needed "to fill the gap between theory and practice"); Dark, *supra* note 4, at 35 (encouraging law professors to produce law review articles that are shorter and more manageable for busy practitioners to use).
63. See Edwards, *supra* note 44, at 36 (declaring that "too many important social issues are resolved without the needed input from academic lawyers" because too few professors are producing work that is useful to judges, administrators, legislators, and practitioners).
64. See Dark, *supra* note 4, at 33 (proposing that law schools have more "ongoing dialogue and involvement with the practicing bar" to help bridge the gap between law schools and the legal profession). Richard Boswell believes that clinicians are in the optimal position to bridge the gap between the legal academy and the outside world because they stand in two positions: within the academy and in the larger world of legal practice. Boswell, *supra* note 3, at 1192. Thus, clinicians "are uniquely able to contribute to legal education's understanding of the outside world. Each of our constituencies has an important contribution to offer the academy, and we are in an excellent position to talk with and among those constituencies." *Id.* On the concept of the scholar-advocate, see, e.g., Susan N. Herman, *Balancing the Five-Hundred Hats: On Being a Legal Educator/Scholar/Activist*, 41 *Tulsa L.Rev.* 637 (2006); Eric K. Yamamoto, *Reclaiming Civil Rights in Uncivil Times*, 1 *Hastings Race & Poverty L. J.* 11 (2003); Rebecca S. Eisenberg, *The Scholar as Advocate*, 43 *J. Legal Educ.* 391 (1993).

clients who are blind.⁶⁵ I had not discussed using a second-language interpreter in client interviews.⁶⁶ Yet, there I was at PAI doing all those things.

Rosenbaum: While Suzanne noted how the office sabbatical helped inform her teaching of writing skills, she also brought some of those skills directly to my colleagues and to law student interns. One of her first assignments was to make editorial suggestions on a report being drafted by our investigations unit.⁶⁷ This kind of report is an advocacy tool that can help shape public policy to change practices in institutionalized settings, schools, and law enforcement agencies. Too often, practicing lawyers—certainly those in public interest settings—fail to submit to peer review, for reasons of time, pride, or unavailability of a qualified reviewer. Surely, other written work by the organization’s lawyers and nonlawyer advocates—sometimes verbose⁶⁸ and jargon-laden—could have benefited from Suzanne’s critical eye. Just as there is value in law teachers toiling among practicing attorneys, there is also a benefit to lawyers who supervise law student externs (or junior colleagues) in spending more time in the classrooms and corridors of the professoriate.

65. See Stuckey, *supra* note 1, at 77, 79 (arguing that law schools should help students “deal sensitively and effectively with diverse clients and colleagues,” particularly in the area of cross-cultural competence). *Id.* at 88–89 (crediting lawyering model developed by Susan Bryant and Jean Koh Peters). For a thorough exploration of this model, see generally Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 *Clinical L. Rev.* 33 (2001). See also Carolyn Copps Hartley & Carrie J. Petrucci, *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and Law*, 14 *Wash. U. J. L. & Pol’y* 133 (2004). Disability Rights California places a premium on reaching diverse clientele with regard to ethnicity, language, gender, and sexuality. See *Advocacy Plan 2008–12, supra*, note 35 (Principles and Community Outreach Goals).
66. The office practice was to use a “language line” telephone interpreter service when there was no in-house staff capability. On the dynamics of interviewing non-English proficient clients, see, e.g., L. Richard Brinkman Jr., *Representing Non-English Speaking Clients* (American Bar Association 2007), available at <http://www.abanet.org/genpractice/magazine/2007/jan-feb/nonenglishclients.html> (last visited Feb. 4, 2009).
67. See *supra* note 29. In contrast to the rest of the law firm, this unit functions almost as a “private attorney general” under broad statutory authority to investigate incidents of abuse and neglect of disabled persons in facilities and programs. See, e.g., 42 U.S.C. §§ 10801(b)(2)(B), 15001(b)(2), 15043(a)(2)(B); Calif. Welf. & Inst. Code § 4902(a)(1), 4902(b), 4902(c), 4902(d).
68. I have often joked with colleagues that if something can be said in ten words, PAI will say it in twenty. There is now a full-time communications director at the organization who, at least for media and non-judicial forums, is helping frame the message in terms the general public can easily grasp.

Suzanne also performed directly and explicitly as a teacher when she gave a presentation to staff attorneys and advocates at our quasi-annual statewide staff conference on proper style manual citation format⁶⁹ and to summer law students on persuasive writing.⁷⁰

Rabé: The vast majority of my interviews were conducted by telephone.⁷¹ Although PAI serves people with disabilities, most of my interviews were with the parents of people with disabilities, who were not themselves disabled.⁷² Nonetheless, I was surrounded by others who were interviewing and counseling clients with disabilities. In the lunchroom, in the staff meetings, in the hallways, I heard about these interviews.

Rosenbaum: Suzanne is too modest to say this: Often callers would be impressed by having a phone call from a “law professor,”⁷³ one of those intangibles that enhances client rapport and public relations.

Rabé: These experiences have already changed the curriculum in my legal writing classes. This year, the students will not be learning only about in-person interviews in a lawyer’s office. They will be reading about a wider variety of interviews, and they will be practicing with a more diverse group of mock clients. I would not have predicted that my three months volunteering at PAI would improve our law school’s interviewing curriculum.

69. This pro bono presentation—not financed by PAI—actually preceded Suzanne’s formal sabbatical “apprenticeship,” before she had even moved to the Bay Area. Despite its deadly sounding title, the topic was actually one that colleagues had selected. I believe Suzanne herself was surprised and bemused by the rave reviews.
70. Aristotle and Dr. King: Using Classical Rhetoric in Modern Persuasion. This presentation was easily adapted from presentations Suzanne has given to her students at the University of Arizona College of Law and to other audiences. (Powerpoint on file with authors.) The summer law students came from various Oakland and Bay Area public interest organizations as a part of a “green bag” lunch series featuring lawyers talking about social justice themes.
71. On the advantages and disadvantages of telephone interviewing, see, e.g., D. Binder, P. Bergman & S. Price, *Lawyers As Counselors: A Client-Centered Approach* 99 (West 1991).
72. To continue the dis-linguistic debate: One scholar argues that “disabled people” is preferred to “people with disabilities” for its focus on the impairment created by barriers within society, rather than on the individual, accentuating the experience of discrimination and oppression. Susan Jane (Huhana) Hickey, *The Unmet Legal, Social & Cultural Needs of Māori with Disabilities* (2008) (Ph.D. Dissertation, University of Waikato, Law and Māori and Pacific Development Studies) 5-6 (citations omitted) (on file with authors). Hickey takes the discussion one step further, noting that if disability identity is understood from an indigenous perspective, then, in time, a unique language can develop to describe this. *Id.*
73. Caplow observed in her sabbatical cum practicum that “[a]cademics enjoy a respect, whether or not deserved, derived from their particular status.” Caplow, *supra* note 4, at 10.

Rosenbaum: I have to second Suzanne’s endorsement of the “sending down” model, the occasional laboring in the trenches. This is a means for faculty to stay in touch with real client issues, in a real office setting.⁷⁴ It will probably not yield scholarship⁷⁵ nor necessarily another kind of valued clinical work-product, such as a stellar amicus brief or practice manual. But the value to the office is in having a professional “outsider” as a role model for staff to offset tendencies to become jaded, routine, or ineffectual. For clients, of course, the bonus is in establishing quality rapport and, ideally, sound legal advice.

Conclusion

Meaningful change may be on the horizon in many areas of legal education.⁷⁶ The Carnegie Foundation’s two-year study of legal education—and its recommendations for more emphasis on clinics and trial or practice simulations⁷⁷—has generated much discussion within the academy. Our proposal—that clinical and skills professors, and legal writing professors in particular, consider practicing law during some portion of their sabbaticals—addresses many of the concerns expressed by the Carnegie Foundation. Moreover, it would improve the learning experience for students in clinics and other skills classes, while at the same time providing much-needed legal services to the under-represented. In the end, it would improve the overall administration of justice by bridging the divide between the academy and practice. Ours is a modest proposal—one with few risks and little-to-no cost—that could reap significant benefits for legal education and professional practice.

74. The Carnegie study authors write about the “Wisdom of Practice” whereby “the legal professional must move between the detached stance of theoretical reasoning and a highly contextual understanding of client, case, and situation.” *Educating Lawyers*, *supra* note 1, at 115.
75. Of course, there continues to be vigorous debate within the academy about the value of much current legal scholarship. For a truly damning critique, see, e.g., Pierre Schlag, *Spam Jurisprudence, Air Law, and the Rank Anxiety of Nothing Happening (A Report on the State of the Art)*, 97 *Georgetown L.J.* 803, 829, 835 (2009) (“So what—so you have maybe seven thousand-something law professors in the nation and you know, maybe ninety-six percent are engaged in a kind of vaguely neurotic scholarship. So what? Maybe it’s borderline tragic.... [W]ithin the dominant paradigm of legal scholarship, it may be that there is very little of enduring value to be said.”). Cf. Richard A. Posner, *The State of Legal Scholarship Today: A Comment on Schlag*, 97 *Georgetown L.J.* 845, 852 (2009) (“In fact, the empirical study of law is, after many false starts (beginning with the Legal Realists of the 1920s and 1930s), making firm strides.”).
76. Adam Cohen, *With Downturn, It’s Time to Rethink the Legal Profession*, *N.Y. Times*, Apr. 1, 2009, available at <http://www.nytimes.com/2009/04/02/opinion/02thu4.html?em> (“Law schools may become more serious about curricular reform.... If law jobs are scarce, there will be more pressure on schools to make the changes Carnegie suggested, including more focus on practical skills.”).
77. *Educating Lawyers*, *supra* note 1, at 115.