

NOURISHING JUSTICE AND THE CONTINUUM: IMPLEMENTING A BLENDED MODEL IN AN IMMIGRATION LAW CLINIC

IRENE SCHARF*

The purpose of this Article is to describe how the new Immigration Law Clinic at the Southern New England School of Law has combined attention to the School's mission of educating students and expanding justice by serving the community with the broader goal of addressing the continuing educational needs of recent law school graduates. The Clinic not only offers direct legal services to clients but also trains and mentors recently graduated local attorneys, who offer both pro bono client representation as well as student supervision. Through the Immigration Law Clinic, these attorneys are trained in both immigration law and clinical supervision. This dual training has enhanced the Clinic as well as provided the South Coast area of Massachusetts with attorneys trained in the types of legal issues that plague lower-income immigrants. In addition, these attorneys, now acting as clinical supervisors, allow the Clinic to admit more students, thereby providing both clinical experience to greater numbers of students and legal assistance to greater numbers of immigrants. Part I of the the Article discusses the concept of mission in law schools, especially as it has been affected by the MacCrate Report, which urged schools to address both the problem of achieving justice in our society and the need for continuing education for attorneys. Part II draws the connection between the justice mission and learning continuum with the Law School's new Immigration Law Clinic, describing how the Clinic's structure addresses the Law School's mission of providing community service by blending the work of newer attorneys who are not clinicians with that of the Clinic. By building attention to the learning continuum into the Clinic's structure in a so-called "Blended Model," we have not only been able to educate two groups, law students and community lawyers, but we have also enhanced the Clinic's ability to improve the justice system by increasing access to it. Finally, Part II identifies some issues faced in working with the Model during the past two years and describes

* Professor and Director, Clinical Programs, Southern New England School of Law. I would like to thank Crystal Desirey, paralegal *extraordinaire*, for her invaluable research and conceptualizing assistance. Thanks are also owed to Justine Dunlap for her comments on a later draft, and to the administration of Southern New England School of Law for supporting this project with a Summer Stipend.

enhancements that have enabled the Clinic to more nearly achieve both our pedagogic and social goals.

What is the goal of legal education?¹ To be sure, it is at least to graduate lawyers who are capable of high-quality client representation, necessitating an understanding of important substantive legal principles as well as relevant ethical ones.² To put this knowledge to use, a lawyer must be able to perform a wide variety of skills such as interviewing, counseling, negotiating, mediating, drafting briefs and other documents, preparing for and performing litigation, and otherwise engaging in the numerous and varied skills that are embodied in a dynamically productive lawyer. In recent years, some law schools have reached beyond these basic aspirations; they have adopted more altruistic purposes, aiming to turn out lawyers who will go on to "do good work in the community."³ Here at the Southern New England School of Law, where I have been teaching for fifteen years, our mis-

¹ Not surprisingly, this question has arisen before. Gary Bellow raised it in a piece for the *JOURNAL OF LEGAL EDUCATION* in 1983 when he critiqued the traditional method of legal education as improperly preparing students to practice law. Gary Bellow, *On Talking Tough to Each Other: Comments on Condlin*, 33 *J. LEGAL EDUC.* 619, 622 (1983). Professor Kevin R. Johnson and Amagda Perez, in describing the Immigration Law Clinic at the University of California at Davis School of Law, questioned the identification of a "core . . . law school mission." Kevin R. Johnson and Amagda Perez, *Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory into Practice and Practice into Theory*, 51 *SMU L. REV.* 1423, 1425 (1998) (discussing connections between critical legal studies and the "critical lawyering" that can operate in clinical legal education). More recently, Bethany Rubin Henderson asked a variant of the question in *Asking the Lost Question: What is the Purpose of Law School?* 53 *J. LEGAL EDUC.* 48 (2003) (locating the responsibility of law schools on the perennial questions about the unfulfilling nature of both legal education and life as a lawyer).

² The goals have been stated variously as having students attain intellectual competencies, developing habits and attitudes of lawyers, and understanding the legal system, A. Kenneth Pye, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology*, in *CLEPR, CLINICAL EDUCATION FOR THE LAW STUDENT* 21 (1973); and gaining skills and competencies for legal practice, including interviewing and counseling skills, collecting and organizing facts, analyzing legal problems, performing legal research, planning case strategies, negotiating, communicating orally and in writing, organizing and managing legal work, and understanding the operation of legal instructions. *AMERICAN BAR ASSOCIATION, SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOL* 8-10 (1979) (hereinafter *CRAMPTON REPORT*); *AALS-ABA COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION, GUIDELINES FOR CLINICAL LEGAL EDUCATION* 14-15 (1980). Others opine that the purpose is simply to train students to become effective problem-solvers in the legal context. Janet Motley, *Self-Directed Learning and Out of House Placement*, 19 *N.M. L. REV.* 211, 219 (1989).

³ This includes the law schools at, for example, City University of New York, the District of Columbia School of Law, a reincarnation of Antioch School of Law, "the first school to treat clinical teaching and justice education as central to the curriculum," and the Tennessee College of Law. Margaret Martin Barry, Jon Dubin, & Peter Joy, *Clinical Education for this Millennium: The Third Wave*, 7 *CLIN. L. REV.* 1, 48 (2000).

sion, which has continually evolved, is found somewhere in the middle – we aim to prepare our students to provide quality legal representation while they serve the local communities where they will be practicing, which frequently are their hometowns.⁴

The purpose of this Article is to describe how the new Immigration Law Clinic (sometimes “Clinic”) at the Southern New England School of Law has combined attention to the School’s mission of educating students and expanding justice by serving the community with the broader goal of addressing the continuing educational needs of recent law school graduates.⁵ The Clinic not only offers direct legal services to clients but also trains and mentors recently graduated local attorneys, who offer both *pro bono* client representation as well as student supervision. Through the Immigration Law Clinic, these attorneys are trained in both immigration law and clinical supervision. This dual training has enhanced the Clinic. We now have more immigration practitioners in the South Coast area of Massachusetts trained

⁴ Based on information current on August 14, 2003 from the Registrar at Southern New England School of Law, on file with the author, of 465 Southern New England graduates who belong to the Massachusetts bar, 239 of them, or 51 percent, are practicing law in the immediate South Coast area, which includes both Cape Cod and the area north of New Bedford through and including the City of Brockton. When one adds to this graduates from other geographical areas practicing in or near their hometowns, in community law offices (either legal services offices or solo or small offices serving the neighborhood rather than corporate interests), the numbers increase to 247, or 53 percent of the members of the bar serving their communities. Others have noted that law students frequently return to their communities. One Oklahoma graduate commented, “[t]he school assumes you’ll learn those skills in actual practice, and that’s difficult. In Oklahoma, for example, many of the students plan on going back to rural communities to work with another attorney or maybe open a solo practice.” 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, 237-38 (1996).

⁵ Some scholars have criticized clinical scholarship. Professor Robert Condlin has been critical of much of the clinical scholarship as simply “reflections on my semester” and insufficiently scholarly. Robert J. Condlin, *Socrates’ New Clothes: Substituting Persuasion for Learning in Clinical Practice Instruction*, 40 MD. L. REV. 223, 279, n.118 (1981). In that piece, he did implicitly praise the reflection of earlier clinical articles, such as Gary Bellow & Earl Johnson, *Reflections on the University of Southern California Clinical Semester*, 44 S. CAL. L. REV. 664 (1971); and the textbook GARY BELLOW & BEA MOULTON, *THE LAWYERING PROCESS: MATERIALS FOR CLINICAL INSTRUCTION IN ADVOCACY* (1978). Condlin, *supra* at 279, n.118. He seemed to be looking for discussion of teaching methodologies or substantive ideas about law practice. *Id.* Professor Richard Boswell expressed a different critique of this type of scholarship: “some of the recent clinical scholarship has been characterized by abstract language, understandable to few and relevant only to the academy.” Richard A. Boswell, *Keeping the Practice in Clinical Education and Scholarship*, 43 HASTINGS L.J. 1187, 1191 (1992). He sought “[a] more morally emphatic, living scholarship . . . to fill the gap between theory and practice.” *Id.* at 1194. I hope that this article meets both professors’ concerns, in satisfying the mandates of university scholarship while also being concrete, comprehensible, and relevant to the community; for my purposes, I will have succeeded if it offers constructive assistance to law faculty who are struggling to develop high-quality models of education and service in an atmosphere of limited finances.

in the types of legal issues that plague lower-income immigrants. In addition, these attorneys, now acting as clinical supervisors, allow the Clinic to admit more students, thereby providing both clinical experience to greater numbers of students and legal assistance to greater numbers of immigrants.

To locate the Immigration Law Clinic in context, Part I discusses the concept of mission in law schools, especially as it has been affected by the MacCrate Report, which urged schools to address both the problem of achieving justice in our society and the need for continuing education so that attorneys are able to grow throughout their careers. Part II draws the connection between the justice mission and learning continuum with the Law School's new Immigration Law Clinic. The section describes how the Clinic's structure addresses the Law School's mission of providing community service by blending the work of newer attorneys who are not clinicians with that of the Clinic. By building attention to the learning continuum into the Clinic's structure in a so-called "Blended Model," we have not only been able to educate two groups, law students and community lawyers, but we have also enhanced the Clinic's ability to improve the justice system by increasing access to it. Finally, Part II identifies some issues faced in working with the Model during its initial two years and describes enhancements that have enabled the Clinic to more nearly achieve both our pedagogic and social goals.⁶

I. CONNECTIONS: MISSION, JUSTICE, AND THE LEARNING CONTINUUM

That a law school's mission drives its curriculum, including its clinical offerings, is no surprise. Identification of a law school's mis-

⁶ In describing the origins, goals, structure, strengths, and weaknesses of the SNE-ILC Clinic, in an effort to "lead us to a better understanding of how different factors converged" to create this Blended Model of clinical legal learning, I am joining the call of other clinical law professors to describe our various programs in order to "construct an account of the factors that gave rise to" the pedagogy of the Blended Model. See, e.g. Peter Jaszi, Ann Shalleck, Marlana Valdez & Susan Carles, *Experience as Text: The History of Externship Pedagogy at the Washington College of Law, American University*, 5 CLIN. L. REV. 403, 406 (1999). Gary Bellow and Earl Johnson did this as early as 1971 in an article on the clinic at the University of Southern California. Bellow & Johnson, *supra* note 5.

For more on the justice mission of law schools, see Robert J. Condlin, *Learning from Colleagues: A Case Study in the Relationship Between "Academic" and "Ecological" Clinical Legal Education*, 3 CLIN. L. REV. 337, 435 at n. 114 (1997) ("For clinical legal education that ultimately means a theory of justice, for it is justice that we seek, or should seek, with the techniques we develop and teach.") See also Robert D. Dinerstein, *Clinical Scholarship and the Justice Mission*, 40 CLEV. ST. L. REV. 469, 473 (1992) (encouraging clinical professors to use their experience supervising students and representing the unrepresented to write, and therefore to "redefine what is clinical scholarship and thereby increase the ability of legal scholars to promote justice").

sion, buttressed by the adoption of curricula and programs to further that mission, is the focus of the nation-wide accreditation process conducted by the American Bar Association (ABA),⁷ which long ago recognized that the success of a law school depends on training competent attorneys.⁸ Training competent attorneys has long been an abiding concern among law faculty, especially those involved in clinical education. Gary Bellow, an inspiration to more than one generation of clinical law faculty,⁹ agitated early in the 1970s for serious attention to this issue,¹⁰ believing that clinical legal education was a "method of teaching law in practical contexts. . ."¹¹

But precisely what type of contextual education should we offer our clinical students? Many law school clinicians have discovered that their answers to this question reflect who they are. Many clinicians chose their path because they came to the law with non-traditional notions about how they would use their law degrees. Reactions against institutionalized racism; assassinations of adored leaders such as John F. Kennedy, Robert F. Kennedy, and Martin Luther King, Jr.; prosecution of an unfair war in Vietnam; and later concerns about the

⁷ AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, STANDARDS FOR APPROVAL OF LAW SCHOOLS, Standard 202(a) (2003-04).

⁸ Lawyer competence is a function of cognitive knowledge, fundamental skills, ability to apply knowledge and skills with proficiency, and proper motivation. Kenneth R. Kreiling, *Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience Through Properly Structured Client Supervision*, 40 MD. L. REV. 284, n.2 (1981); CRAMTON REPORT, *supra* note 2, at 1.

⁹ This statement was made by Professor Charles Ogletree in a tribute to Professor Bellow following his untimely death. Charles J. Ogletree, Jr., *A Tribute to Gary Bellow: The Visionary Clinical Scholar*, 114 HARV. L. REV. 421, 424 (2000). In 1980, Professor Carrie Menkel-Meadow referred to Professor Bellow as "the theoretical father of Clinical Education." Carrie Menkel-Meadow, *The Legacy of Clinical Education: Theories about Lawyering*, 29 CLEV. ST. L. REV. 555, 558 (1980).

¹⁰ Professor Bellow's observations started as a critique of the delivery of legal services to the poor. Gary Bellow, *Turning Solutions into Problems: The Legal Aid Experience*, 34 NLADA BRIEFCASE 106, 108, 117-19 (1977) (identifying the problems he observed in legal services offices, such as the routine processing of cases, lack of client autonomy, narrow view of cases and claims, settlement pressures, and demeaning of clients' rights). Then he turned his attention to the paucity of training in law school for law practice. Gary Bellow, *Clinical Studies in Law*, in LOOKING AT LAW SCHOOL: A STUDENT'S GUIDE FROM THE SOCIETY OF AMERICAN LAW TEACHERS 237-39 (Stephen Gillers ed., rev. and expanded ed. 1984). In this work, he focused his attention on educational institutions that he believed deserved much of the blame for the shortcomings of legal services systems. Ogletree, *supra* note 9, at 425-26.

¹¹ *Id.* at 426-27 (quoting an interview by Charles Nesson with Gary Bellow). On another occasion, Gary offered that "[a]ttention to the actual workings of the legal system provides an understanding of systemic distortions that may skew the ideals of fairness and justice (such as, for example, racial or class bias; or the inadequacies of the system of legal services for indigent clients." [sic] Gary Bellow & Randy Hertz, *Clinical Studies in Law*, in LOOKING AT LAW SCHOOL: A STUDENT'S GUIDE FROM THE SOCIETY OF AMERICAN LAW TEACHERS 344 (Stephen Gillers ed., 4th ed. 1997).

rights of women and the environment; caused many who became lawyers during and following the 1960s to devote their professional lives to helping improve the lives of those who suffered various societal inequities. Hopes were high that we could help 'change the world' and 'make it a better place.'¹² This so-called social-change lawyering was the goal; many of us hoped to model ourselves on the type of lawyers later described in Gerald P. Lopez's book *Rebellious Lawyering*¹³ to help create greater fairness and justice around us.¹⁴

Given our perspective on the world and the array of possibilities available to lawyers, once we moved from law practice to the academy and clinical teaching, many of us struggled to enrich our students' experiences beyond the classroom.¹⁵ Operating on the assumption that law students' experiences can affect profoundly their subsequent professional identities and career choices,¹⁶ clinical professors have sought to structure clinical opportunities that would inspire students

¹² In discussing the period of clinical legal education beginning in the 1960's, and identifying the factors contributing to its development during this period, the authors Margaret Martin Barry, Jon C. Dubin, and Peter A. Joy have noted that "[p]erhaps the most powerful of these factors was the zeitgeist of the 60's, which produced 'student demands for relevance.'" Barry et al., *supra* note 3, at 12. They quoted Professor Dean Hill Rivkin's comment that "[i]t was the societal legacy of the sixties . . . that most shaped clinical legal education. The fervor of the sixties penetrated law schools quite passionately." *Id.*, citing Leah Wortham, Dean Hill Rivkin, Philip Schrag, Roger Wolf, Elliott Milstein & Kandis Scott, *Clinical Legal Education: Reflections on the Past Fifteen Years and Aspirations for the Future*, 36 CATH. U. L. REV. 337, 341 (1987). See also PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 1 (1998) ("[c]linical education was born in the social ferment of the 1960s"); Minna J. Kotkin, *The Violence Against Women Act Project: Teaching a New Generation of Public Interest Lawyers*, 4 J.L. & POL'Y 435, 446 (1996) ("[s]tudents attending law school" in the 1960s "were no longer satisfied with the ivory tower. They wanted the tools to become legal activists, demanding 'relevance' in their legal education.") Unfortunately, the generation of students inoculated by this drive did not last long. In college in the early 1970s, I remember my own alienation from my fellow students when, a philosophy major myself, I began to notice the myriad of business majors. In spite of the change in students' focus during these later years, it is inspiring that any younger practitioners still choose to teach in law clinics, as evidenced by their presence at national meetings.

¹³ GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992).

¹⁴ I appreciate my readers' indulgence in the assumptions I make here about clinical faculty; while I am aware that not *all* clinical faculty who grew up in the 1960s held these values, it is true that many did, and that those clinical law educators have influenced profoundly the development of this aspect of legal education. See *supra* note 12.

¹⁵ The clinical legal education movement is not the only aspect of legal education that has been affected by the decade of the 1960s. Noting the impact of the Vietnam War and the civil rights movement on the development of the Critical Legal Studies movement in legal education, one observer has commented, "[s]ixties hippies are now law professors, and bring their '60s political backgrounds to their present positions." Paul Reidinger, *Civil War in the Ivy*, 72 ABA J. 64, 67 (Nov. 1986).

¹⁶ Barry, et al., *supra* note 3, at 13 ("this focus on social justice is important 'not only because of its effect upon clients but also because of its effect upon students'").

to devote themselves to cases and projects tending to expand justice for those needing more of it.¹⁷

In recent years some clinicians have become more explicit in advocating justice as a goal of clinical legal education.¹⁸ While there are undoubtedly many reasons behind this spate, surely some of us were encouraged in this endeavor by the ground-breaking MacCrate Report,¹⁹ published in 1993.

The MacCrate Report was among the inspirations for the development of the Blended Model developed in the Immigration Law Clinic at the Southern New England School of Law. Inspired as well by the Law School's mission to serve the community, by a reinvigoration of the social justice mission reported in recent clinical scholarship, and innovations undertaken by the legal services community and local bar associations, the Clinic's structure enhances access to the justice system by the immigrant community living in the South Coast region of Massachusetts. This access to free legal work enables clients to achieve some relief from the variety of odious amendments made to

¹⁷ Nina Tarr, *Current Issues in Clinical Legal Education*, 37 *How. L.J.* 31, 32 (1993): [A] major stimulus for many programs that developed during the 1960s and early 1970s was the desire to serve the needs of the unrepresented, to sensitize students to their ethical and moral responsibilities to society, to train students in poverty law practice, and to give law schools a role in their communities.

See also *id.*, at 32-33 (questioning whether the goals should be service or social change, and whether they should be handling "small" cases or more complex litigation). To a great degree, the fuel for the evolution of Southern New England's mission statement was, as Professor Tarr suggested, tailoring the education to the types of law the students will probably engage in upon graduation. Most of our students either open their own practices, often in and around the South Coast area, or join with another small office. See *supra* note 4. Thus, they need to be competent in basic practitioner skills, including interviewing, counseling, negotiating, case preparation, direct and cross examination, and the like. Tarr, *supra*, at 32. See also Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality,"* 4 *CLIN. L. REV.* 1 (1997) (describing the ways in which clinical education can inculcate in law students a sense of justice, fairness, and morality).

¹⁸ The argument has been that clinical law professors can choose to structure their clinics in ways that will both promote social change in their surrounding communities and inculcate in their students a desire to continue that type of practice after they graduate. See, e.g., Aiken, *supra* note 17, at 3; Johnson and Perez, for example, describe the law clinic at the University of California at Davis Law School, one of the first in the United States to focus on immigration law. Johnson & Perez, *supra* note 1, at 1426 (discussing the potential for clinical programs to promote social change, "inspire students to pursue public interest careers, expose law students to the stark inequalities in their country, and how law interacts with . . . those inequalities"); Katherine R. Kruse, *Lawyers Should be Lawyers, But What Does That Mean?: A Response to Aiken & Wizner and Smith*, 14 *WASH. U. J. L. & POL'Y* 49, 61 (2004) (discussing Aiken & Wizner's and Smith's vision that "law students should be challenged by the ideal of the lawyer as champion of social justice to choose legal careers that promote social justice objectives").

¹⁹ AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM. REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, 1992 (hereinafter MACCRATE REPORT OF MACCRATE).

our immigration laws during the past decade. To maximize the Clinic's ability to assist the greatest number of clients wade through the maze of immigration laws and regulations, it is structured somewhat differently than are other law school clinics. Reflecting two important themes in the MacCrate Report, the Clinic blends a focus on access to justice with attention to the educational continuum necessary for the development of all lawyers.

The MacCrate Report, so named for the Chairman of the ABA Task Force that studied lawyers' preparation to undertake "the shared body of lawyering skills and professional values which lawyers entering practice should possess," identified the "commonly perceived deficiencies in the lawyering skills and professional values in today's law graduates," and hoped to illustrate how we might "improve the education of American lawyers."²⁰ Task Force members also considered how newer practitioners could develop and maintain professional development during their careers so that they might achieve a comfortable level of competency.²¹ The Report, totaling 414 pages, was so sought-after upon completion that it was released in book form. The prime legacy of the Report was its Statement of Skills and Values (SSV), an itemization of the Fundamental Skills²² and Values²³ law students should acquire while in school. The Reporters acknowledged that much of the responsibility for teaching these concepts would fall to law schools. To be sure, the Report has also had its detractors from among all political and social spectrums extant in law schools,²⁴ but in

²⁰ INITIAL BLUEPRINT FOR THE ABA TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (Dec. 18, 1989), cited in Michael Norwood, *Scenes from the Continuum: Sustaining the MacCrate Report's Vision of Law School Education into the Twenty-First Century*, 30 WAKE FOREST L. REV. 293, 305, n.6 (1995).

²¹ MACCRATE REPORT, *supra* note 19, at 3-8 (Introduction); and at 123-130 (Chapter 4 - Formulating a Statement of Skills and Values).

²² These skills include the following: problem solving, legal analysis and reasoning, legal research, factual investigation, communication, counseling, negotiation, litigation, alternative dispute resolution procedures, organization and management of legal work, and recognizing and resolving ethical dilemmas. MACCRATE REPORT, *supra* note 19, at 141-207.

²³ These values include the following: provision of competent representation; striving to promote justice, fairness, and morality; striving to improve the profession; and professional self-development. MACCRATE REPORT, *supra* note 19, at 207-21.

²⁴ For a sampling of just some articles raising serious issues with MacCrate, see John J. Costonis, *The MacCrate Report: Of Loaves, Fishes and the Future of American Legal Education*, 43 J. LEGAL EDUC. 157 (1993) (critiquing the costs of implementing MACCRATE); Letter from Dean Ronald Cass, et. al., to Deans of Law Schools Accredited by the American Bar Association (Apr. 18, 1994) (critiquing the use of the SSV in accreditation decisions); John S. Elson, *The Regulation of Legal Education: The Potential for Implementing the MacCrate Report's Recommendations for Curricular Reform*, 1 CLIN. L. REV. 363 (1994); Carrie Menkel-Meadow, *Narrowing the Gap by Narrowing the Field: What's Missing from the MacCrate Report - of Skills, Legal Science and Being a Human Being*, 69 WASH. L. REV. 593 (1994) (criticizing the Report for prescribing a static list of skills and

the main it has been notably influential,²⁵ inspiring over the past decade a plethora of dialogue and law review articles concerning vital curricular issues.²⁶

values and rejecting a holistic view of lawyering); and Burnele V. Powell, *Somewhere Farther Down the Line: MacCrate on Multiculturalism and the Information Age*, 69 WASH. L. REV. 637 (1994) (in "Symposium: The 21st Century Lawyer: Is There a Gap to be Narrowed?") (suggesting that MacCrate incorrectly reflects the insider's view of a static profession, and ignores the effects of the country's increasingly racial, cultural, and gender diversity on the law).

²⁵ The effects of the Report were felt by many, especially those who teach law for a living, and may be appreciated when one considers that my search of articles citing the Report, conducted October 6, 2003, yielded 87 responses. Of those, thirteen authors used the word "MacCrate" in the titles of their articles. Many authors have been satisfied with the MacCrate findings, while others were not. In 1997 clinical professor Ann Juergens suggested ways in which the MacCrate report could be used to help advocate for clinic programs. Ann Juergens, *Using the MacCrate Report to Strengthen Live-Client Clinics*, 1 CLIN. L. REV. 411 (1997). Another author compiled a bibliography of law review articles that discuss teaching MacCrate's fundamental skills in non-skills oriented, or 'casebook' classes, organized in accordance with the ten Fundamental Skills offered in MacCrate. Arturo Lopes Torres, *MacCrate goes to Law School: An Annotated Bibliography of Methods for Teaching Lawyering Skills in the Classroom*, 77 NEB. L. REV. 132 (1998). And another suggested that four of the Fundamental Skills identified in MacCrate (factual investigation, client counseling, recognizing and resolving ethical dilemmas, and organization and management of legal work) could be the basis for exercises used to introduce students to these skills in the context of the toxic tort case made infamous in JONATHAN HARR, A CIVIL ACTION. Raleigh Hannah Levine, *Of Learning Civil Procedure, Practicing Civil Practice, and Studying a Civil Action: A Low-Cost Proposal to Introduce First-Year Law Students to the Neglected MacCrate Skills*, 31 SETON HALL L. REV. 479 (2000). In 2003, Kristin Booth Glen, inspired by the MacCrate Report's emphasis on the skills needed for "minimum competence to practice law," suggested implementing an alternative, "better" bar exam she designed that evaluates performance of the MacCrate Fundamental Skills. Kristin Booth Glen, *Thinking out of the Bar Exam Box: A Proposal to "MacCrate" Entry to the Profession*, at 23 PACE L. REV. 343, 346-47 (2003). Also in 2003, Thomas M. Steele used MacCrate's Fundamental Skill Number Nine, Organization and Management of Legal Work to illustrate the effect publication of the Report has had on "achiev[ing] more universal knowledge of law practice management" and "what the legal profession in general has done to help lawyers' achieve competency in managing their practices." Thomas M. Steele, *The MacCrate Report: Its Impact on Education in Law Firm Management*, at 23 PACE L. REV. 613, 622 (2003).

²⁶ Russell Engler, *The MacCrate Report Turns 10: Assessing its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLIN L. REV. 109, 116 (2001) ("[t]he MacCrate Report became a lightning rod for discussion, strategizing about teaching, and critique of law school curricula both within law schools and beyond law school walls. Following . . . publication, a steady stream of conferences focused on the Report, as well as on the teaching of skills and values in general.") See also, Wallace Loh, *Introduction: The MacCrate Report - Heuristic or Prescriptive?* 69 WASH. L. REV. 505 (1994); Elson, *supra* note 24. Law review articles followed, especially between 1992 and 1998. *Id.* at 117. One could peruse the Table of Contents of the CLINICAL LAW REVIEW, inaugurated in 1994 in the wake of MacCrate, to appreciate the Report's influence. Engler, *supra* at 123 ("By the spring of 1993, most Deans responding to a [sic] AALS survey 'reported that their faculties had already discussed the report or were planning to do so in connection with a review of their curricula.'") MacCrate continues to foster thought by law faculty. See, e.g., Russell Engler, *From 10 to 20: A Guide to Utilizing the MacCrate Report Over the Next Decade*, 23 PACE L. REV. 519 (2003).

A. *MacCrate and the Justice Mission*

MacCrate stressed that justice should be one of the prominent values promoted during the law school experience. Prefaced with the statement that our profession "bears 'special responsibilit[ies] for the quality of justice,'" Value Two of the SSV exhorts lawyers to be committed to justice, fairness, and morality; "to ensure that adequate legal services are provided to those who cannot afford to pay for them;" and to contribute "to the profession's fulfillment of its responsibility to enhance the capacity of law and legal institutions to do justice."²⁷ The Commentary following the discussion on Values speaks of the *pro bono* obligation "that all lawyers bear,"²⁸ as well as the responsibility to improve the legal system.²⁹ We are reminded by MacCrate that the Code of Professional Responsibility assumes that "[l]awyers are especially qualified . . . to recognize deficiencies in the legal system and to initiate corrective measures therein."³⁰

Even before MacCrate was published, legal scholars were emphasizing the importance of taking action to promote justice, rather than simply noticing where it was lacking. In 1991, during a symposium held at the Cleveland State Law School entitled *The Justice Mission of American Law Schools*, Professor David Barnhizer opined that the justice mission

²⁷ MACCRATE, *supra* note 19, at 223. Speaking to members of the profession, this section states "(a) To the extent required or permitted by the ethical rules of the profession, acting in conformance with considerations of justice, fairness, and morality when making decisions or acting on behalf of a client;" and "(b) To the extent required or permitted by the ethical rules of the profession, counseling clients to take considerations of justice, fairness, and morality into account when the client makes decisions or engages in conduct that may have an adverse effect on other individuals or on society." *Id.* See Aiken, *supra* note 17, at 2, n.1 (noting that some are criticized for taking on a social justice agenda as abusing their power and forcing their own agendas on their students); Howard Lesnick, *The Integration of Responsibility and Values: Legal Education in an Alternative Consciousness of Lawyering and Law*, 10 NOVA L. REV. 633 (1986).

²⁸ MACCRATE, *supra* note 19, at 224, citing MODEL CODE OF PROF'L RESP. EC 2-25 (1969) ("[e]very lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged"; "[t]he rendition of free legal services to those unable to pay reasonable fees continues to be the obligation of each lawyer"); ABA SPECIAL COMMITTEE ON PUBLIC INTEREST PRACTICE, RECOMMENDATION AND REPORT (Approved by ABA House of Delegates, August 1975); ABA YOUNG LAWYERS DIVISION, RECOMMENDATION AND REPORT (Approved by ABA House of Delegates, August 1988). In spite of this obligation, "law school curricula even at the start of the twenty-first century generally fell short of the ABA Standard that law schools 'should encourage and provide opportunities for student participation in pro bono activities.'" Barry, et al., *supra* note 3, at 14-15, n.59, citing AMERICAN BAR ASSOCIATION SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, FINAL COMMENTARY ON CHANGES IN CHAPTERS THREE AND FOUR OF THE STANDARDS FOR APPROVAL OF LAW SCHOOLS (1998-1999).

²⁹ MACCRATE, *supra* note 19, at 215.

³⁰ *Id.* (citing MODEL CODE OF PROF'L RESP. EC 8-1 (1969)).

carries within it an obligation to act. . . . This active responsibility to work toward realization of justice in human society is . . . a vital component of what we call the Golden Rule, do unto others as you would have them do unto you. This principle requires action, not simply thought . . . [and] is the most powerful statement of the underlying principle of social organization because, if followed, it tends to produce greater fairness, concern for others, and tolerance.³¹

MacCrate and others' exhortations to law schools fell largely on approving ears, particularly among the community of clinical law professors, who welcomed support for a principle many had already been highlighting in their clinical programs. "Everything we do as law teachers suggests something about justice," wrote Professor Jane Aiken, several years after publication of MacCrate.³² She urged clinical faculty to adopt programs that would maximize the likelihood that clinical students will devote themselves, as lawyers, to work to

³¹ David Barnhizer, *The Justice Mission of American Law Schools*, 40 CLEV. ST. L. REV. 285, 321 (1992). While I find the discussion of justice compelling, it is not the focus of this Article. Nonetheless, I feel compelled to have excerpted below a few more portions of his discussion:

This obligation to act, to engage with the conditions of real society, reflects a basic dilemma that has long confronted the . . . worlds of religion and academia. . . .

Ideals are not simply language. They generate and focus power. They help to clarify and define what we do. Choosing the ideal of a justice mission is itself a critical first step. . . . A series of basic questions must be identified, defined and addressed if the justice mission is to be pursued. These questions include:

1. How intense is the justice mission?
2. What are its elements?
3. How do we work them out in our teaching, scholarship and service?
4. What are the limits on the mission dictated by the fact that law schools are part of universities and this role imposes an obligation to seek truth in an unbiased way?

Id. at 327-29. For the philosophers among us, the following:

[W]henver cultures have examined the issue of justice in society, they have arrived at the same essential conclusion. . . . This active responsibility to work toward realization of justice in human society was the basis of John Bunyan's question of those who would seek to enter Heaven, "but were you doers or talkers only"? It can be found in the spirit of the bodhisattva who, though entitled to flee the troubling concerns of earthly existence, chose in an act of ultimate compassion to remain and work to improve the lot of others. It is implicit in Aristotle's description of justice as the highest virtue precisely because it is not self-centered but is defined by our awareness of what is good for others and our willingness to engage in action consistent with that awareness. It is even reflected in Plato's allegory of the Cave, because Plato's message is that those who would be philosopher-kings must first turn away from the shadows of the cave toward the light of full knowledge and understanding; but after attaining the light of knowledge they must then return to apply their understanding to human affairs. It helps us to avoid the total self-centeredness that tears apart political communities.

Id. at 338.

³² Aiken, *supra* note 17, at 3.

further justice.³³ While clearly respectful of MacCrate's focus on justice, Professor Aiken noted the paucity of attention the Report gave to the notion, discussing it for only three pages of its great length.³⁴ She reminded us that this lack of attention "communicate[s] a great deal about the (un)importance of justice when we do not focus on it explicitly"³⁵

To be sure, several clinical law programs have adopted a focus on justice as their key organizing principle while maintaining concentrations in a variety of substantive legal areas.³⁶ But there is another means of realizing the justice mission, one often overlooked, which is to improve access to the system in the first place. Notably, even the MacCrate reporters identified this as a priority when they commented that a law school's focus on justice must address the issue of access to legal services for those without the ability to pay.³⁷ Clearly, without access to lawyers there can be no justice for this segment of our society.³⁸

³³ Jane H. Aiken, *Provocateurs for Justice*, 7 CLIN. L. REV. 287 (2001).

³⁴ Aiken, *supra* note 17, at 5.

³⁵ *Id.* at 6.

³⁶ Examples include programs operating at the University of California at Davis Law School, Golden Gate University School of Law, Catholic University Law School, Stanford, Yale, SUNY at Buffalo, and the University of Michigan Law School. Kevin Johnson and Amagda Perez, for example, describe the law clinic at the University of California at Davis Law School, one of the first in the United States to focus on immigration law. Johnson & Perez, *supra* note 1, at 1425. At Golden Gate University School of Law, in the Environmental Law and Justice Clinic, the goal is to "address the disproportionate impact of environmental hazards in communities of color." Alan Ramo, *The Environmental Justice Clinic at the Golden Gate University School of Law: Profile of Environmental Justice Activism*, 30 HUMAN. RTS. 6, 6 (2003). Margaret Martin Barry explains how she and others have created law school clinics in a variety of practice areas that have rejected the litigation-based approach of so many clinics in favor of models that can help achieve social justice by helping to create solutions to the array of problems of deterioration in these underserved communities. Margaret Martin Barry, *A Question of Mission: Catholic Law School's Domestic Violence Clinic*, 38 HOW. L.J. 135 (1994). In attacking the litigation paradigm, Professor Barry suggests that this alternative focus will help develop "creative solutions to the vicious cycle of deterioration in urban ghettos." *Id.* at 161. She cites as examples Stanford Law School, where Professor Gerald Lopez targets East Palo Alto, California whose poor residents are mostly black and Latino. *Id.* at 150. At Yale Law School, similar concerns about speculative development led clinicians in 1987 to create a Workshop on Shelter for the Homeless (later called the Workshop on Housing and Community Development). *Id.* Since 1988, Professor Peter Pitegoff of the State University of New York (SUNY) at Buffalo has run the Community Economic Development Law Clinic. *Id.* at 151. Finally, in 1990, faculty at the University of Michigan Law School founded the Program in Legal Assistance for Urban Communities, hoping "to be a constructive participant in the process of community transformation and redevelopment. [The program] provides legal services for community-based organizations, including a residential program for homeless teenage girls and several economic development corporations." *Id.*

³⁷ MACCRATE, *supra* note 19, at 213.

³⁸ Clinicians Margaret Martin Barry, Jon Dubin, and Peter Joy remind us that the issue of access to justice is not a new one, as evidenced by the fact that the founding of clinical

The urgency of addressing the unmet legal needs of those living in poverty is evident. Their legal problems were found in a national study to be handled without professional legal assistance 80% of the time.³⁹ On a local level, in Louisiana for example, between 85 to 92% of its low income citizens with civil legal needs were found to have been unrepresented.⁴⁰ The number in Massachusetts was found to be 15%, in Illinois 20%.⁴¹ Other studies have confirmed that only about 20 to 25% of the legal needs of the poor are being met.⁴² Research into specific sub-groups demonstrates an even greater deprivation — for example, a statewide study of unmet legal needs among the elderly in Wisconsin found that only 18% of their legal problems were handled by the legal profession,⁴³ while elderly poor people of color have been found to suffer even less access to lawyers than their white counterparts.⁴⁴ And although indigent criminal defendants are able to benefit from appointed legal counsel, insufficient funding for both public defenders and private attorneys handling criminal cases remains daunting.⁴⁵ A recent study by a committee of the American Bar Association found that “legal representation of indigents is in ‘a state of crisis.’ These defendants are at constant risk of wrongful conviction and unjust punishment, including the death penalty”⁴⁶ The case for immigrants is no better. While “immigrants with lawyers are 17 times more likely to avoid deportation than those without them,” because immigrants have no right to court-appointed attorneys, only 41% of those appearing before immigration judges have lawyers, and only 1.3% of the applicants without attorneys receive favorable rul-

law programs in the late 1960s was based on “a desire on the part of a significant number of law students to help make the law serve the needs of the poor.” Barry, et al., *supra* note 3, at 12 [citing Charles E. Ares, *Legal Education and the Problem of the Poor*, 18 J. LEGAL EDUC. 307, 310 (1965)].

³⁹ ABA CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, TWO NATIONWIDE SURVEYS: 1989 PILOT ASSESSMENTS OF THE UNMET LEGAL NEEDS OF THE POOR AND OF THE PUBLIC GENERALLY 37 (1989).

⁴⁰ William P. Quigley, *The Unmet Civil Needs of the Poor in Louisiana*, 19 S.U. L. REV. 273, 273 (1972).

⁴¹ Wayne Moore, *Improving the Delivery of Legal Services for the Elderly: A Comprehensive Approach*, 41 EMORY L.J. 805, 805 (1992) (1987 and 1989 figures).

⁴² Michelle S. Jacobs, *Pro Bono Work and Access to Justice for the Poor: Real Change or Imagined Change*, 48 FLA. L. REV. 509, 509 (1996).

⁴³ Moore, *supra* note 41, at 805.

⁴⁴ *Id.* at 851.

⁴⁵ See Catherine Beane, *Indigent Defense*, CHAMPION, Nov. 2003, at 44; Janet Reno, *Six Building Blocks for Indigent Defense*, CHAMPION, April 1999, at 28. The argument for the right to counsel for indigent civil defendants has also been made. See Simran Bindra & Pedram Ben-Cohen, *Public Civil Defenders: A Right to Counsel for Indigent Civil Defendants*, 10 GEO. J. ON POVERTY L. & POL'Y 1 (2003).

⁴⁶ *Representation of Indigent Defendants Inadequate, Study Says*, BOSTON GLOBE, Feb. 11, 2006, at A6.

ings, compared with 23% of those with legal counsel.⁴⁷

Besides the poor themselves, perhaps no group understands the gravity of unmet legal needs better than those working in the legal services community; their work can be seen as an inspiration for law school clinicians. Each day these advocates witness the problems inherent in a society that provides too few lawyers for its people; they can be said to represent the practitioner version of Professor Barnhizer's vision of activist law professors, who put the Golden Rule into action on a daily basis. Through constant struggle, these legal activists have persisted in their efforts. For example, shortly after the Legal Services Corporation was established in 1974 as a way to centralize public funding and regulation of neighborhood legal services offices, it sought to consolidate these offices, an effort that would strike a severe blow to clients' abilities, literally, to reach their lawyers, and vice versa.⁴⁸ This effort was opposed by the legal services community. Even when the consolidation was eventually instituted, the legal services community continued to do all it could to maintain access to their clients. More recently, Congress enacted considerable restrictions on the types of cases these offices can handle, targeting, in particular, immigration matters. Yet these limitations were also met by creative solutions to continue to extend services to those in need. Many legal services offices were restructured to segregate cases funded through federal sources. New corporate entities were created through which those cases were handled, leaving the original entities to continue operating, using non-federal monies, free of the imposed restrictions.⁴⁹ Rather than relenting and limiting the representation they would undertake, this creative restructuring enabled these offices to maintain both their levels of funding and types of representation.

Legal services attorneys remain in the forefront of designing innovative programs to enhance their clients' ability to access justice. At various times these programs have been identified as "unbundling"

⁴⁷ Lisa Getter, *Few Applicants Succeed in Immigration Courts*, L.A. TIMES, Apr. 15, 2001, at A20.

⁴⁸ Kimberly A. Gulley, *Equal Access to Justice: The Responsibility of the Legal Profession*, 4 KAN. J. L. & PUB. POL'Y 105, 108 (1994). While in private practice in the late 1970s, my law office, along with several others, participated in a pilot project funded by the LSC to test whether private attorneys could provide civil legal services more cheaply than could the neighborhood offices. In Boston, the city in which I practiced, several neighborhood offices were, unfortunately, eventually consolidated into a central location in downtown Boston.

⁴⁹ In a situation with which I am familiar, as a trustee of one of Harvard Law School's legal clinics, the Hale and Dorr Legal Services Center, revived a relatively dormant non-profit corporation to receive federal funds, enabling cases subject to federal restriction to continue to be handled, but also allowing cases now ineligible for federal funds to be maintained by the organization.

legal services, "discrete task representation," or "alternatives to full-time representation."⁵⁰ Representation of clients through these models is undertaken only for discrete legal problems that the legal services office can handle expeditiously, thereby avoiding litigation that can be interminable, demands excessive resources, and helps few clients. For example, in some offices, attorneys provide limited assistance to clients completing name-change forms or other types of simple legal paperwork.⁵¹ Some offices have established mediation programs, particularly in family law cases.⁵² Other types of innovative programs involve cooperative arrangements with area hospitals through which hospital employees and patients with unmet legal needs are referred to a local legal services office,⁵³ training and using volunteer lawyers to accept *pro bono* cases,⁵⁴ and standardizing pleadings for pro se matters, particularly in divorce cases.⁵⁵

Various other programs have been implemented that encourage lawyers to help provide the poor greater access to the judicial system. The impetus for this movement may be found in the American Bar Association's Rule 6.1, Model Rules of Professional Conduct, adopted in 1993, which set a minimum number of *pro bono* hours an attorney "should" perform.⁵⁶ Some law firms have adopted internal mandatory *pro bono* policies.⁵⁷ Recently, even some law schools have implemented a mandatory *pro bono* requirement.⁵⁸ Courts themselves, such as the Second Federal Circuit, have created *pro bono* panels.⁵⁹ Several state courts and bar associations, including

⁵⁰ See Forrest S. Mosten, *Unbundling of Legal Services and the Family Lawyer*, 28 FAM. L.Q. 421 (1994).

⁵¹ March 4, 2005 conversation with Cynthia Monteiro, Clinical Instructor, Family Law Unit, Hale and Dorr Legal Services Center of Harvard Law School, Jamaica Plain, Massachusetts.

⁵² *Id.*

⁵³ Moore, *supra* note 41, at 823. March 4, 2005 conversation with Cynthia Monteiro, *supra* note 51.

⁵⁴ Moore, *supra* note 41, at 836. Such a program operates in various areas of substantive law through the legal services office located in New Bedford, Massachusetts, near the Law School, at the New Center for Legal Advocacy.

⁵⁵ See Barry G. Williams, *Access to Justice*, WYO. LAW., Aug. 2001, at 33 (updating actions taken by the Wyoming State Bar Foundation, by its President). See also, Robert B. Yegge, *Divorce Litigants Without Lawyers*, 28 FAM. L. Q. 407 8, 10-11 (1994). The Hale and Dorr Legal Services Center also operates a *pro se* Divorce Clinic.

⁵⁶ B. George Ballman, Jr., *Amended Rule 6.1: Another Move Towards Mandatory Pro Bono? Is That What We Want?* 7 GEO. J. LEGAL ETHICS 1139, 1139 (1994).

⁵⁷ Elizabeth Stull, *Small Firm Makes Pro Bono Mandatory*, available at <http://www.law.com/jsp/article.jsp?id=1102543079833>.

⁵⁸ Patti Gearhart Turner & Richard F. Storrow, *Where Equal Justice Begins: Mandatory Pro Bono In American Legal Education*, 72 UMKC L. REV. 493 (2003).

⁵⁹ *Second Circuit Forms New Pro Bono Panel*, AMERICAN BAR ASSOCIATION, LEGAL SERVICES NOW NEWSLETTER 2, available at <http://www.abanet.org/legalservices/sclaid/lsn.html>.

Oklahoma, New Mexico, District of Columbia, Massachusetts, and Mississippi, have recently created access to justice commissions.⁶⁰

At our nation's law schools, several faculties have committed themselves to addressing the issue of access to justice, designing clinical programs with an explicit 'access to justice' mission.⁶¹ These programs recognize that none of the loftier notions of justice identified in MacCrate, such as enhancing the capacity for the law and legal institutions to do justice,⁶² or improving the legal system by recognizing deficiencies in the legal system and initiating corrective measures,⁶³ will be realized unless, in the first instance, the poor have access to lawyers.⁶⁴

B. MacCrate and the Continuum

The MacCrate Report offered yet another concept that provided inspiration for the structure of the Immigration Law Clinic. Beyond the call for a focus on justice, MacCrate encouraged law faculty to revisit their curricula with an eye towards seeing their students as future lawyers, and considering how to foster the life-long learning in which committed lawyers engage. The Reporters encouraged law professors to attend to practicing lawyers' needs to engage in a process of long-term professional development. "[L]aw schools together with the bar and the judiciary must all work for the perpetuation of core legal knowledge together with the fundamental lawyering skills and professional values that identify a distinct profession of law throughout the United States."⁶⁵ The Task Force found that "the skills and values of the competent lawyer are developed along a continuum that starts before law school, reaches the most formative and intensive stage during the law school experience, and continues throughout a lawyer's professional career."⁶⁶ Of the four stages of the educational

⁶⁰ *New State Access to Justice Commissions Formed*, AMERICAN BAR ASSOCIATION, LEGAL SERVICES NOW NEWSLETTER 2, available at <http://www.abanet.org/legal/services/sclaid/lsn.html>.

⁶¹ Some programs, such as that at Seattle University, offer their students structured opportunities to volunteer in the community in order to help fill the unmet legal needs in that community. See www.law.seattleu.edu/accesstojustice.

⁶² MACCRATE, *supra* note 19, at 213.

⁶³ *Id.* at 215 (citing MODEL CODE OF PROF'L RESP. EC-8-1 (1969)).

⁶⁴ See MACCRATE REPORT, *supra* note 19, at 215. On the pro bono obligation, see *id.* at 214; on access to justice and serving the poor, see Barry, et al., *supra* note 3, at 12.

⁶⁵ MACCRATE, *supra* note 19, at 120. Lawyers in practice have noted the importance of sharing responsibility for legal education among the practicing bar, the legal academy, and the judiciary. William R. Rakes, *Conclaves on Legal Education: Catalyst for Improvement of the Profession*, 72 NOTRE DAME L. REV. 1119 (1997).

⁶⁶ MACCRATE REPORT, *supra* note 19, at 3. A current clinical law professor, Eric Janus at William Mitchell College of Law in St. Paul, Minnesota, referred to his own realization that law school was "just the beginning of my legal education." Eric Janus, *Clinical Teach-*

continuum identified by the Task Force, two are said to arise following law school graduation.⁶⁷

MacCrate's emphasis on the learning continuum struck a chord with many in legal education. Professors appreciated the notion that learning to be a lawyer is accomplished not through memorization of discrete subject areas, but rather through learning these subjects as part of the totality, or continuum; and that this learning process builds on itself through a lawyer's long-term exposure to both the skills and ethical dimensions of practice.⁶⁸ Some faculty even adopted the term "continuum" to illustrate teaching methodologies in the field of legal ethics.⁶⁹ And in the field of clinical legal education that is so often focused on maximizing justice, professors such as Jane Aiken have opined that "doing justice involved life-long learning."⁷⁰

MacCrate reminds us that "implementing [its] vision can only be achieved by fostering and strengthening collaboration among practicing lawyers, law schools, the judiciary, and law students."⁷¹ The Report encourages law schools to collaborate:

Each state, each bar, each law school, each judiciary and each admitting authority is challenged to define its role in the educational continuum and to work with one another to enhance that continuum. There is no single or right way in which to construct it. Rather, it is for the law schools, the bar and the judiciary working together in each state to develop a coherent pattern of training and preparation of lawyers appropriate to that state.⁷²

MacCrate's Task Force suggested establishing collaborative ef-

ing at William Mitchell College of Law: Values, Pedagogy, and Perspective, 30 WM. MITCHELL L. REV. 73, 75 (2003).

⁶⁷ MACCRATE, *supra* note 19, at 225-317 (the four stages include the process prior to law school, professional development during law school, the transition from law student to practitioner, and professional development after law school); NORWOOD, *supra* note 20, at 297.

⁶⁸ See NORWOOD, *supra* note 20; Norman Fell, *Development of a Criminal Law Clinic: A Blended Approach*, 44 CLEV. ST. L. REV. 275, 281 (1996); K. J. Nordheden and M. H. Hoeflich, *Undergraduate Research and Intellectual Property Rights*, 6 KAN. J.L. & PUB. POL'Y. 34 (1997); Howard B. Eisenberg, *The Importance and Place of the Wisconsin Reports on the Delivery of Legal Services and Legal Education*, 80 MARQ. L. REV. 705, 708 (1997); Filippa Marullo Anzalone, *It All Begins With You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 246 HAMLINE L. REV. 326 (2001); Michael Hunter Schwartz, *Teaching Law Students to be Self-Regulated Learners*, 2003 MICH. ST. DCL L. REV. 447.

⁶⁹ See, e.g., Edmund B. Spaeth, Jr., Janet G. Perry, & Peggy B. Wachs, *Teaching Legal Ethics: Exploring the Continuum*, 58 LAW & CONTEMP. PROBS. 153 (1995).

⁷⁰ Aiken, *supra* note 17, at 30.

⁷¹ NORWOOD, *supra* note 20, at 305.

⁷² Robert MacCrate, *The Last Word on a New Beginning*, in THE MACCRATE REPORT: BUILDING THE EDUCATIONAL CONTINUUM 145, 148 (Joan S. Howland and William H. Lindberg eds., 1994).

forts to support the programs it envisioned, such as an "American Institute for the Practice of Law" (AIPL).⁷³ While that vision has to date not been realized, it does seem to have been among the inspiration for several law school initiatives.⁷⁴ Some schools offer a multitude of continuing education programs for their graduates.⁷⁵ Others have gone further and offer training in specialized doctrinal areas to their alumni and others, often for a considerably reduced fee.⁷⁶

By far the most comprehensive program of its kind, the Law School Consortium Project (LSCP) represents a collaboration among several law schools and new practitioners around the nation to support the ongoing learning needs of recent law school graduates. At least indirectly inspired by MacCrate's recommendations, the notion for the Project originated with Kristin Booth Glen, then the new Dean at City University of New York School of Law (CUNY). Glen found that many of CUNY's graduates who had taken seriously their responsibility to return to their underserved communities were not as successful as they might be.⁷⁷ They found themselves in precarious financial situations, professionally isolated, engaging in repetitive work, and thus enjoying little professional satisfaction.⁷⁸ Wholly supportive of MacCrate's emphasis on the learning continuum, Dean Glen believed CUNY should support its graduates' efforts more ac-

⁷³ MACCRATE, *supra* note 19, at 130, 319-23.

⁷⁴ See Fell, *supra* 68, at 281 et. seq.; Anzalone, *supra* note 68.

⁷⁵ For example, the University of Texas School of Law at Austin offers a variety of continuing education courses, from a seminar on Effective Deposition Techniques to Non-profit Organizations to an Advanced Patent Law Institute with Stanford and Boalt Hall Law Schools. See www.utcle.org. The University of Wisconsin Law School sponsors seminars in Estate and Tax Planning Workshops, Ethics sessions for general practitioners as well as for corporate counsel and business lawyers, and studies of The Changing Face of Residential Real Estate Transactions. See www.law.wisc.edu/clew/seminars.htm. The University of North Carolina and the University of Miami Schools of Law also sponsor extensive continuing legal education ("CLE") programs. See www.law.unc.edu/CLE and www.law.miami.edu/cle.

⁷⁶ New York Law School, for example, offers a summer immigration law program and encourages alumni to enroll by charging them a minimal fee; non-alumni pay more. This idea has been expanded by others schools that have developed "civil justice networks" or "access to justice practitioner networks." At the University of New Mexico School of Law, the Access to Justice Practitioner Network offers the services of attorneys who provide either *pro bono* or "low bono" representation to clients identified by the Law School as needing legal assistance but unable to pay for it, or to pay market rates. See <http://law.school.unm.edu/clinic/resources/access>, at 1. Comments of Antoinette Sedillo Lopez, Associate Dean for Clinical Affairs and Director, Clinical Law Programs, UNM School of Law, at the Immigration Law Professors' Workshop, Univ. of Maryland School of Law, Baltimore, MD, June 3-5, 2004. At the University of Chicago, the Pro Bono Initiative has organized participation from members of Chicago's 30 largest law firms and 30 largest corporate law departments. See www.law.uchicago.edu/news/snyder.html.

⁷⁷ Telephone conversation with Kristin Booth Glen, Dec. 10, 2004.

⁷⁸ *Id.*

tively. Faculty from three additional law schools, Maryland, Northeastern, and St. Mary's, worked with those at CUNY to apply for grant funding.⁷⁹ The success of these efforts led to a Consortium that today incorporates the resources of eleven member law schools⁸⁰ who "have developed, or are in the process of developing, a practitioner network that provide[sic] resources and service to solo and small-firm lawyers who are committed to serving low and moderate-income individuals and communities."⁸¹ The schools are "interested in designing, evaluating, and promoting programs that extend the educational and professionalism missions of law schools beyond graduation to train, mentor, and provide other support to community solo and small-firm lawyers. By supporting this segment of the legal profession, the LSCP ultimately seeks to increase the availability of quality legal services for low and moderate-income individuals and communities."⁸²

⁷⁹ *Id.*

⁸⁰ At this writing member law schools include the University of Maryland, City University of New York, Northeastern University (Boston), the University of Michigan, the University of New Mexico, New York Law School, the University of Tennessee, Rutgers University (Newark, New Jersey), Thomas E. Cooley (Lansing, Mich.), and Touro (Huntington, NY). www.lawschoolconsortium.net/members/index.html.

⁸¹ www.lawschoolconsortium.net/members. The Project's founding members felt the Project would address a number of important concerns:

- access to quality "low bono" (affordable) legal services for low and moderate-income individuals and communities;
- the dearth of guidance and services for solo and small-firm lawyers to help them provide quality legal services and handle ethical and practice dilemmas; and
- the large number of law school graduates who enter law schools aspiring to work for the public interest, but, upon graduation, find themselves debt-ridden or unable to obtain one of the scarce public service positions."

www.lawschoolconsortium.net/about/projectdesc.html, at 1.

The Project has demonstrated that by supporting solo and small-firm practitioners who share a desire to provide affordable legal assistance, law schools can enable them to have satisfying and economically viable careers while serving the needs of low and moderate-income individuals and communities. In supporting these practitioners, law schools are able to expand the field of public interest practice by providing students with employment options that enable them to develop public interest practices that serve underrepresented individuals and communities and allowing students to engage in work about which they care deeply." *Id.* The website cited goes into more detail about the goals set for the Consortium and services law schools can use to develop these practitioner networks.

⁸² www.lawschoolconsortium.net/about/index.html, at 1.

The LSCP member law schools provide assistance to their graduates who have community law firms. This assistance may include:

- * Peer mentoring and technical assistance
- * Access to law libraries
- * Training in law office management, technology, and in substantive legal areas
- * Community education opportunities
- * Case referrals
- * Discounts on services such as malpractice insurance, legal software, and legal research databases, and
- * A forum to share experiences, successes, challenges, and practice tips.

Id.

Since joining the Project, member schools have undertaken a variety of projects. The University of Maryland School of Law, for example, initiated a Civil Justice Network in its attempt "to increase the delivery of legal services to Maryland and D.C. clients of low and moderate income through a network of solo, small firm and community based lawyers who share a common commitment to increasing access to justice through traditional and non-traditional means."⁸³ The Network operates a First Time Home Buyer Program in Baltimore that provides trained lawyers who work *pro bono* to assist first time homebuyers.⁸⁴ Participating attorneys are able to tap into a mentoring service, receive advice on law practice management, purchase discounted legal products, and join a listserv and a referral service.⁸⁵

At Southern New England School of Law's Immigration Law Clinic, we have developed a model for clinical legal education that works to promote justice by blending the participation and continuing education of local attorneys with the educational needs of our students, as we incorporate recently graduated attorneys to help supervise in our clinical law program. This use of recent graduates has proven to be an innovative way to address the problem of unmet legal needs in communities adjoining our law school. In addition to the obvious benefits to be reaped by local communities as area lawyers enhance their substantive knowledge of legal issues that arise in relation to the poor, many benefits also inure to law students participating in these programs. The next section will review how we developed this Blended Model of clinic structure and supervision, which we have used in our Immigration Law Clinic.

II. THE BLENDED MODEL – ACCOMPLISHING THE GOALS OF JUSTICE AND ADDRESSING THE CONTINUUM

While all clinics at the Law School serve and thereby empower

To be sure, other collaborative programs exist among the nations' law schools. For example, Los Angeles-area law schools formed a network in 1993 that uses the acronym GLACE (Greater Los Angeles Consortium of Externships) to develop joint standards for externship supervision. The group shares a placement database, which helps them monitor placements and supervisors and share the administrative and economic burdens placed upon externship programs as a result of a new ABA Standard adopted in the early 1990s governing field placement programs. See William Wesley Patton, *Creating an Externship Consortium: The GLACE Experience*, 4 T.M. COOLEY J. PRACT. & CLINICAL L. 233 (2001). Additionally, law librarians have been working with schools in their region for some time to pool resources in order to meet rising costs. See *id.* at 233, n. 4.

⁸³ <http://www.civiljusticenetwork.org>, at 1. The Civil Justice Network represents one of the first projects of the Law School Consortium Project, discussed shortly.

⁸⁴ *Id.*

⁸⁵ *Id.*

those whose legal needs are notably underserved,⁸⁶ in the Immigration Law Clinic that service is offered in a novel way. In the Clinic, the MacCrate Report's emphases on pursuing justice and supporting the life-long learning continuum have been combined in what I call a "Blended Model" of clinical structure and supervision. This section will describe how I developed the Immigration Law Clinic to respond to the specific mission of Southern New England Law School and the needs of the community; detail the Blended Model that emerged for the clinic structure and supervision; and explain how I fine-tuned and enhanced the model to respond to challenges it posed.

A. History and Development of the Immigration Law Clinic

At the Law School, we have kept our mission in mind as we have developed our clinical programs.⁸⁷ Our first live-client clinic, the Legal Services Clinic,⁸⁸ reflects awareness of the reality that, following graduation, many of our graduates enter small or solo practices, not infrequently in the New Bedford area.⁸⁹ As inexperienced practition-

⁸⁶ In addition to the Immigration Law Clinic we operate a Legal Services clinic (supervised by an adjunct professor/experienced legal services practitioner), a judicial internship, an extensive Field Placement Program (including an international placement), and beginning this winter, a non-profit clinic that will attend to the unique educational needs of our evening-weekend students. We also offer one credit Field Placements in which students enrolled in a doctrinal course commit themselves to volunteering at least five hours each week with a law office that specializes in subjects being studied in the classroom. Other law schools employ a similar format. See Clinical Programs at New England School of Law, Spring 2005, available at www.nesl.edu; Stephen F. Befort, *Musings on a Clinic Report: A Selective Agenda for Clinical Legal Education in the 1990s*, 75 MINN. L. REV. 619, 627-28 and n.38 (1991). In the past, I have also run a course and corresponding Mediation Clinic in a local Small Claims Court.

⁸⁷ We also undoubtedly had in mind our ABA accreditation visit in 1997, which critiqued the Law School's lack of a live-client clinic. ABA Accreditation Committee, Action Letter to Southern New England, July 16, 1997, at 11 (on file with the author). Another influence on the faculty's curricular decisions was the groundbreaking MACCRATE REPORT, and our discussion of its influence. See *supra* notes 19-26, and accompanying text. MACCRATE surely influenced our faculty to discuss seriously the academy's expectations for clinical education; this led to our 1999 adoption of a three-credit practical skills requirement, recently amended to six credits.

⁸⁸ While I had run a Mediation Clinic for several years in a local Small Claims Court, the Legal Services Clinic was our first traditional live-client clinic; it was directed by a full-time faculty member who, with a second professor, provided supervision. This program has since been transformed into what would likely be viewed as an externship, in that the students are no longer supervised directly by a full-time faculty member, but by the Executive Director of the legal services office, an adjunct professor who has been involved with the Law School's clinical programs, including the procurement of federal and state-wide grants, for more than a decade. See ABA STANDARDS, *supra* note 7, Standard 304, Interpretation 304-9(b)

⁸⁹ While we do enjoy many students from the greater New Bedford, Bristol County area, which has a population of 93,768, others hail from other parts of Massachusetts, New England, and some even from Atlantic, Southern, Midwestern States, or from even further reaches of the country. A surprising number, even those not originally from the New Bed-

ers, they frequently find themselves handling family law cases, minor criminal law cases, real estate matters, and contract disputes.⁹⁰ Opening in the fall of 1998,⁹¹ the Legal Services Clinic was housed along with the New Center for Legal Advocacy, a legal services office in New Bedford, Massachusetts. Our students placed there work with the array of cases that are typically handled by civil legal services offices, including housing issues and family law cases involving domestic abuse, child custody and visitation, and paternity.

The approval of a request for federal funding in the spring of 2002 fueled the establishment of the Southern New England School of Law Immigration Law Clinic.⁹² While surprised by the funding, given that it followed on the heels of the terrorist attacks of September 11, 2001 and the subsequent anti-immigrant wave that swept the nation,⁹³ we welcomed it as a necessary means of enhancing immigrant legal representation in the South Coast area. Once it was determined that I would design and direct the program,⁹⁴ my prime concern was to further the School's mission of serving our community while educating our students in the practice of law. To succeed in this, as well as to satisfy our Congressional sponsors, I needed to be conservative in expending the Clinic's resources. The grant would support only one full-time faculty supervisor, me, along with a part-time paralegal.⁹⁵

ford area, enjoy their experience here so that they remain after graduation to practice law.

⁹⁰ This information is based on conversations I have had over the past fifteen years with alumni of the Law School. Clinical faculty at other schools have also found that most of their graduates will engage in general practice either alone or in small firms in small to medium-sized communities. Douglas A. Blaze, *Déjà vu All Over Again: Reflections on Fifty Years of Clinical Education*, 64 TENN. L. REV. 939, 954 (1997) (conclusions based on a survey of Tennessee law students).

⁹¹ We had cooperated since 1990 with the local legal services offices in various programs, including field placements and two clinical grants.

⁹² The Clinic was initially funded through a Congressional Grant under the FIPSE Act (Fund for the Improvement of Post Secondary Education), ushered through Congress by our local congressmen, Barney Frank and James McGovern; and through the Senate by Edward M. Kennedy and John F. Kerry. In the end, we were awarded funding for our first three years of operation.

⁹³ See, e.g., Tara Bahrapour, *A Nation Challenged: Notebooks; Anti-Immigration Posters*, N.Y. TIMES, Sept. 24, 2001, at B10; Susan Sachs, *Changes Called Likely in Policy on Immigration*, N.Y. TIMES, Sept. 24, 2001, at A16.

⁹⁴ The choice seemed natural. In private practice in Boston in the late 1970s through the early 1980s, I represented indigent immigrants through a pilot program of the Legal Services Corporation. Thereafter, when I began teaching, my interest in immigration law caused me to teach and write in the area. See Irene Scharf & Christine Hess, *What Process is Due?: Unaccompanied Minors' Rights to Deportation Hearings*, 1988 DUKE L.J. 114 (1988); Irene Scharf, *Preemption by Fiat: The Department of Labor's Usurpation of Noncitizen Workers' Right to Unemployment Benefits*, 56 ALBANY L. REV. 561 (1993); Irene Scharf, *Kosovo's War Victims: Civil Compensation or Criminal Justice for Identity Elimination?* 14 EMORY INT'L L. REV. 1415 (2000).

⁹⁵ This changed during the second year of the program, when the paralegal began to work in the Clinic more than 90% of the time.

Several questions surfaced. With such limited resources, how could we accomplish a significant degree of client representation? Should the Clinic be one or two semesters in length? With few local immigration practitioners to handle the legal needs of the South Coast's immigrant community, could the Clinic help to develop a group of experienced immigration practitioners in the South Coast region, so that the Clinic could create a lasting effect in the immigrant community? Would I be able to involve in our Project some of the national immigration experts practicing in the Boston-area?⁹⁶ How could the legal needs of the many unrepresented immigrants in the South Coast area begin to be adequately addressed by a new and notably small clinic? Finally, how could this new Clinic, with minimal personnel, ensure a high quality of legal service to its clientele?

While not a member of the Law School Consortium Project, we at Southern New England are also attempting to focus our students on not only the knowledge, ethical judgment, and skills needed to practice law, but also on how they can serve their communities both while in school and beyond it. The Law School's Mission Statement has recently been modified to reflect this aim.⁹⁷ Because a primary purpose of the Clinic's funding was to increase immigration representation in the South Coast area,⁹⁸ I knew that certain more labor-intensive in-house clinic designs were inappropriate.⁹⁹ To employ the traditional model of one supervisor to eight students, each handling a limited number of cases, would necessarily limit the numbers of students involved and thus the numbers of clients we could accommodate. To have the desired impact on immigrants in the community,¹⁰⁰ we

⁹⁶ The Law School is located in North Dartmouth, Massachusetts, about 60 miles south of Boston.

⁹⁷ The initiative in our mission statement that encourages students to serve their communities was approved by the faculty at the Law School's retreat in early May 2003 (meeting minutes on file with the author).

⁹⁸ The Clinic's initial application for funding, submitted for fiscal year 2002 to the Subcommittee on Labor, Health and Human Services, and Education, House Committee on Appropriations, sought funds to provide legal assistance to indigent clients, primarily in the area of deportation defense, family reunification, asylum claims, and naturalization assistance to the significant immigrant population, primarily Portuguese, Cape Verdean, Hispanic and Southeast Asian . . . The specialized legal needs of this immigrant community . . . low-income and poor sectors, are often not met. Request for Funding, 2002-03, response to question 3 ("Provide a brief description of the activity or project for which funding is requested") (materials on file with the author). The Clinic's subsequent application reiterated the needs of the immigrant community for legal assistance, and the Clinic's intent to continue to provide it. Request for Funding - Fiscal Year 2004, response to questions 3 (materials on file with the author).

⁹⁹ I also teach a section of Torts, direct the Clinical Programs and until June 2004 the Legal Writing Program, chair two faculty committees, and serve on others.

¹⁰⁰ A 2002 survey of the unmet civil legal needs of Massachusetts residents uncovered over 700,000 residents who had incomes at 125 percent or less of the federal poverty line,

needed to somehow extend the reach I could obtain as the only full-time attorney in the program, and to be creative in doing so.

I addressed the dual goals of educating students and providing maximum quality service to the community by inviting our graduates practicing in the surrounding communities to participate in the program as additional supervisors.¹⁰¹ The bulk of these recent graduates are experienced in neither clinical supervision nor immigration law. However, buoyed by the value MacCrate locates in continuing education, and akin to many *pro bono* programs,¹⁰² the Clinic offers these attorneys training in both immigration law and clinical supervision in return for their commitment to act as Attorney-Supervisors for clinic students. The training is supplemented by my ongoing supervision, as well as by a network of "Senior Mentors," experienced immigration practitioners from the Boston and South Coast areas, who lend support, frequently by telephone, on an as-needed basis. This structure not only helps provide more supervisors for the law students, but it

or \$22,625 annually for a family of four. LEGAL NEEDS STUDY ADVISORY COMMITTEE, POLICY IMPLICATIONS OF THE MASSACHUSETTS LEGAL NEEDS SURVEY 3 (2003) (on file with the author). "[T]wo-thirds of these households" or about 466,000 residents "encounter at least one legal problem every year. . .and "in only 20 percent of households" or 93,200 "are all legal problems addressed." *Id.* "Of all civil legal needs, immigration problems show the highest occurrence of unmet need (79% of those with immigration problems have at least one unmet)." *Id.* at 19. Of those, four percent of low-income Massachusetts residents, or 2,800, reported immigration issues, such as "becoming a citizen, becoming a legal resident or getting a green card, bringing a family member to the United States legally, getting political asylum, being threatened with deportation or gaining amnesty." *Id.* While these statistics do not break down immigrants in Massachusetts by region, one can extrapolate that in the South Coast and Cape Cod areas, which is immigrant-rich in comparison with the rest of the State, there are hundreds of residents with unmet legal immigration needs.

¹⁰¹ See Barry, et al., *supra* note 3, at 28-29:

Th[e] teaming of full-time faculty with practicing lawyers leverages faculty time by permitting a greater number of students in the faculty member's clinic or freeing up part of the faculty member's time to teach other courses. Often this less expensive approach to expanding clinical opportunities has the added advantage of immersing students in an actual law office while ensuring their access to a full-time educator who can help them reflect upon their day-to-day experiences and to extract the appropriate lessons.

One of our Attorney-Supervisors graduated not from Southern New England but from another Boston-area law school. Her participation is described shortly.

¹⁰² In the immigration context this includes the Boston-based *pro bono* immigration project, Political Asylum and Immigration Representation (PAIR), which has trained over 250 attorneys, and employs a common model by which legal services offices enlist the aid of local attorneys. During the 1990s, I co-authored a grant proposal for which the Law School received funding from the Legal Services Corporation to collaborate with the local legal services office in New Bedford, Massachusetts to train our recent graduates in domestic violence law in return for their commitment to accept at least one *pro bono* case within the following year. That legal services office, as well as many others, regularly offers free training in areas such as bankruptcy law, domestic relations, and others, in return for the lawyer's commitment to accept a *pro bono* case.

also helps build a cadre of experienced public interest immigration attorneys in the South Coast region. Supervision in the Clinic, then, has been characterized by an internal coherence based on common interest and professional dedication, but also complemented by a loyalty to the Law School and the local community.

The Law School's service mission has also been paramount in our consideration of the types of immigration cases the Clinic accepts. Again, the goal is to assist immigrants in the South Coast area with legal problems that would likely remain unmet without our assistance. Initially, I tapped my thirteen years' experience working with local attorneys in the Law School's Field Placement Program. During those years, I had placed students with the Immigrants' Rights Project of Catholic Social Services, located in a nearby community.¹⁰³ The immigration component of this field placement focused on naturalization and political asylum cases. The immigration attorney at Catholic Social Services, who had participated in an in-house clinic in law school,¹⁰⁴ volunteered to participate as an Attorney-Supervisor. I knew students under her supervision would be working on naturalization and political asylum cases, thus my focus turned to determining what other types of immigration needs existed in the community. I learned that in addition to Catholic Social Services, several Boston-area agencies offered representation in political asylum cases. What was lacking was legal representation for many of the more than 200 detainees, both male and female, being held in Department of Homeland Security (DHS) detention at the Bristol County House of Correction (BHOC), less than one-half mile from the Law School. For example, during fiscal year 2001, only 48 percent of the total detained respondents applying for relief from deportation had legal representation,¹⁰⁵ as opposed to 80 percent of those who were not detained.¹⁰⁶ In addition, the fact that detained immigrants have a greater likelihood of achieving relief if they have attorneys¹⁰⁷ convinced me that the Im-

¹⁰³ That cooperation took the form of placing some students enrolled in my Immigration Law courses with Catholic Social Services, at which they volunteered for at least five hours each week, receiving an additional credit for the course.

¹⁰⁴ That clinic was the Boston University Legal Aid Program, where she worked with Susan Akram, clinical professor who specializes in immigration law.

¹⁰⁵ The current term, since the immigration law effective in 1996, is "removal." 8 U.S.C.A. sec. 1101(a)(17) (1996).

¹⁰⁶ EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, OFFICE OF PLANNING AND ANALYSIS, FISCAL YEAR 2002 STATISTICAL YEARBOOK 2 (2003).

¹⁰⁷ *Id.* at 1 ("Immigration Court Representation: Boston"). For example, 74.9 percent of the detained unrepresented respondents were removed from the United States, while only 56.7 percent of those detained who were represented were removed. *Id.* Further, only 2.6 percent of the detained unrepresented respondents received relief other than removal (permitted to remain in the United States), while a full 11.6 percent of those detained and represented received such relief. *Id.* Finally, 12.5 percent of those detained and repre-

migration Law Clinic should focus on assisting these detainees.

Various activities undertaken through the Immigration Law Clinic reflect the Law School's commitment to the local community. Since the Clinic has opened, we have sought each year to add an additional component that addresses the community's needs. Our most long-standing service is a "Know Your Rights" presentation at the local Bristol County House of Corrections. Conducted at the beginning of the school year, this service also acts as a funnel for new cases. During these meetings, the students, paralegal, and I explain to the immigration detainees their basic immigration rights. Thereafter we speak with several individually, and provide many with our business cards so that they can write us with more details about their situations. Students or the paralegal then make individual visits to determine whether our representation could make a difference. Additional community service we have undertaken through the Clinic includes meeting with members of a local organization of Guatemalan Mayans to discuss their immigration questions. Addressing the fact that many residents in the South Coast region are immigrants who are faced with a plethora of legal issues, this year a clinic student gave a presentation about immigration rights to high school students at the nearby New Bedford High School. We plan to speak with area guidance counselors soon to discuss immigrant high schoolers' rights beyond graduation.

B. The "Blended Model" of Clinic Structure and Supervision

The structure of the Immigration Law Clinic that has emerged has caused me to term it a "Blended Model."¹⁰⁸ It represents a blend in two ways. First, the Clinic seeks to achieve MacCrate's dual aims of encouraging community-service (seeking justice) and life-long learning (nourishing the continuum) by incorporating recently graduated lawyers in the community as supervisors in the law school clinic. Second, to respond to the training needs of these nascent clinical supervi-

sented succeeded in having their proceedings terminated, while only 2.4 percent of the detained unrepresented respondents had such a result in Immigration Court. *Id.* We have received many of our cases from the local House of Correction; this has helped us meet our goal of community service. Early in each school year we hold "Know Your Rights" Presentations for the detainees there. This is the students' first introduction to the detainees, and their first opportunity to meet the "public" with their new immigration law expertise.

¹⁰⁸ Nina Tarr lends a tone of acceptance to variety in clinical structure, when she concludes that there are all types of clinics, and all types of clinical instructors. Tarr, *supra* note 17, at 48. She posits that there is neither one clinic nor one type of clinical teacher. In fact, the clinical movement has become more receptive to a wider variety of structure, with in-house clinics becoming more sophisticated and externships having been enhanced with the use of classroom components, site visits, and the like. *Id.* at 48.

sors, the Clinic blends some aspects of in-house clinics with others present in field placement programs, while also employing aspects found in neither clinical model.¹⁰⁹ This blending has enhanced the Law School's ability to achieve its dual goals of offering quality immigration representation in numbers that have an impact on immigrants in the South Coast region and of attuning our students to the skills and values necessary to practice law effectively.

Akin to other in-house clinics, the Immigration Clinic is housed in its own offices, located on the Law School's North Dartmouth campus, with street access; it is staffed by a paralegal who works for the Law School; it offers workspace to its students that includes computers and access to on-line legal research; it has its own library/seminar room; and it has private office space that can be used for interviews and other meetings.

At first glance, some comparisons can be drawn between the Immigration Clinic and field placement programs, although a review of these soon uncovers significant distinctions between the two models. For example, as with field placement programs, some of our students are directly supervised by local attorneys practicing in their own offices. These students engage in legal work at their Attorney-Supervisor's office and work on *pro bono* immigration cases from that attorney's docket. This supervision benefits the students by exposing them to the reality of actual law practice in ways that most in-house clinics can not.

While this structure superficially resembles field placement programs, upon closer scrutiny the disparities become apparent as the similarities with in-house clinics surface. Students working with Attorney-Supervisors generally work on cases chosen, as in in-house clinics, with my consultation. Moreover, the student, not the attorney, is primarily responsible for the client's representation, another parallel with in-house clinics. Significantly, akin to in-house clinics, cases assigned to students are only those that both involve underserved clients and are likely to serve the Clinic's pedagogical goals, whereas a much broader array of factors, many not under the control of the law professor, determine case choices made by field placement supervisors.¹¹⁰ A second distinction between the Immigration Clinic and

¹⁰⁹ Other authors have noted the "similarities in approach and subject-matter between field placement programs and in-house clinics" while also noting the differences between them. Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLIN. L. REV. 413, 417 (1996). It is by pure coincidence that the design of the Immigration Law Clinic looks strikingly similar to one envisioned by Professor Robert Condlin. See Robert Condlin, "Tastes Great, Less Filling": *The Law School Clinic and Political Critique*, 36 J. LEGAL EDUC. 45, 46 (1986).

¹¹⁰ The criteria for our cases include the probability that our representation will achieve

field placement programs is evident in the relationship between the Clinic and our Attorney-Supervisors. As several were new to immigration law,¹¹¹ initially, like their assigned students, they were students in their own right, struggling with the difficult dual role of learning how to be clinical supervisors while also learning immigration law.¹¹² In yet another distinction with field placement programs, rather than students working with their supervisors in solely off-campus locations, our students and supervisors participate actively in the life of the clinic, on-site.

It is the way in which the Attorney-Supervisors are trained and incorporated into the Clinic, as well as the holistic blending of the Clinic's working partners — students, supervisors, paralegal, and me — that distinguishes the Blended Model from both the traditional field placement and in-house models. Training is extensive yet flexible. As two supervisors already practiced immigration law prior to joining the Clinic, they needed only to master the principles and skills of clinical supervision. The remainder have had to learn immigration

a significant result for the client, a tall order these days with the recent constriction of the immigration laws; the timing of upcoming hearings given the students' schedules; whether the cases offer an appropriate diversity of experience; the depth of the students' ongoing case load; and the legal issues in contention, factual issues in dispute, and arguments that can be made to an immigration judge. We seek cases that require preparation of direct and cross examination, client interviewing and counseling, preparation of documents for the court, and writing and filing written arguments. While case choices made by field placement supervisors are made for a myriad of reasons, all of them legitimate, in the Immigration Clinic, Attorney-Supervisor case choices are dictated solely by the needs of the students and goals of the Clinic.

¹¹¹ Two of our original supervisors did have immigration practices, one in a non-profit office and the other at his private firm.

¹¹² This aspect of the program differs from traditional externship programs, but is reminiscent of many *pro bono* programs offered through legal services offices. Supervisors new to immigration law can rely on me and the Senior Mentors to help them traverse this complex field of law. There is something reminiscent of clinical fellowship programs in the supervisor system employed in the Immigration Law Clinic. In the fellowship programs, as in the Immigration Clinic, fellows gain experience in clinical supervision while working in the clinical setting. Presumably, as in the Immigration Clinic, they gain experience in the substantive law practiced in the clinic. Several law schools around the nation have adopted fellowship programs, including Baltimore, Brooklyn, George Washington, Georgetown, Golden Gate, Harvard, Hastings, the University of Iowa, Lewis and Clark College, Loyola College at New Orleans, the University of Minnesota, the University of New Mexico, Santa Clara College, the University of South Dakota, Temple University, Tulane, the University of Virginia, and Yale. See Wallace J. Mlyniec, *The Intersection of Three Visions — Ken Pye, Bill Pincus, and Bill Greenhalgh — and the Development of Clinical Teaching Fellowships*, 64 TENN. L. REV. 963, 983, n.121 (1997). The fellowship programs have been critiqued by some who suggest that they weaken the status of clinicians on long-term or tenure tracks, place undue pressure on clinical teachers, *id* at 986, and risk creating a second-class status for the fellows. *Id.* at 987. See also Justine A. Dunlap & Peter A. Joy, *Reflection-In-Action: Designing New Clinical Teacher Training by Using Lessons Learned from New Clinicians*, 11 CLIN. L. REV. 49, 49 n.1 (2004).

law as well. Both during class sessions they attend as well as at other times, and in person as well as electronically and telephonically, these supervisors discuss case issues with me and with our paralegal. Frequently, following classes I meet jointly with a supervisor and student to discuss ongoing case issues. These supervisors, like their students, gradually gather legal and supervisory expertise by discussing and brainstorming their cases with others in the Clinic, and being involved in the discussion of and brainstorming of Clinic cases on which others are working.¹¹³ In this way a potential liability, the small number of students in the Clinic, has been turned to our advantage. It is in part because of our limited size that we can welcome the supervisors into our classes, through which they have become integrated into the Program along with their students. In effect, then, the Clinic acts as an umbrella under which the work for our clients is accomplished.

While all supervisors are invited to the weekly classroom sessions, it is the immigration-lawyers-in-training who have been most likely to join the classroom. Class members share tips, so that everyone benefits from others' experiences.¹¹⁴ Attending class sessions was particularly helpful for one of our supervisors, a new immigration practitioner; she regularly attended during her first two years with us, and benefited in having the new legal principles reinforced and in developing her supervisory skills by observing me model them there.¹¹⁵ For instance, while her student was drafting a brief, the three of us sat together while the student and I reviewed it, in advance of their private meeting about it. During the conversation it became clear that the draft needed significant revisions, and that the supervisor agreed (I could see her nodding her head). She later told me that she had been unsure how to critique the writing, and that she was reassured to watch me work with the student. The experience empowered her.

The syllabus for the classroom component of the Immigration Law Clinic undoubtedly resembles those of other in-house clinics in its focus on both the doctrinal areas and on the practice skills that will enable students to employ their doctrinal knowledge.¹¹⁶ Skills study

¹¹³ The ongoing interplay involved in this process is reminiscent of my experiences teaching the field placement class; those classes, like this Program, prompt the students to develop their own professional identities not only through their own experiences, but also vicariously, by engaging others' placement experiences.

¹¹⁴ For instance, because there is no right to discovery in Immigration Court, problems of proof predominate, and any help solving them is welcome.

¹¹⁵ The fact that she is a former student, as are a number of the Attorney-Supervisors, makes her participation in class that much more natural.

¹¹⁶ Because of the Clinic's mission, and our small size, we have chosen to concentrate on specific areas within immigration law – deportation defense and long-term relief from deportation (now called "removal"), political asylum, and some family immigration and naturalization issues related to family immigration.

encompasses interviewing and counseling clients; preparing for direct and cross examination and evidentiary issues; and trial planning and preparation, with particular emphasis on anticipating deadlines. While the classroom component follows the syllabus, in-class activities are flexible, tailored to the students' cases and to the specific activities they are undertaking in their cases. To become attuned to how the legal issues in their cases are determined by their factual settings, each student presents a formal Case Round to the class by providing a written description of one of their cases and discussing with the class novel or perplexing issues pertinent to that case. In addition to these formal presentations, informal discussions about key aspects of ongoing cases frequently launch class meetings. Not only does this practice satisfy the students' natural desires to discuss their cases, but it also encourages students to become conversant with the issues in their colleagues' cases. During these discussions, students and I (and supervisors, if they're present) brainstorm various theories for their cases. Issues addressed in these discussions have included determining the relief to be sought, developing a theory of the case, building factual support for the case theory, and legal research strategies.

This fluidity in the relationships among the group of students, supervisors, paralegal, and me, and the flexible and roving nature of student supervision, most differentiate the Immigration Law Clinic from traditional in-house clinics.¹¹⁷ Most in-house clinics assign students to a faculty supervisor who coordinates the work of several students, teaches the weekly seminar, and whose primary employer is the law school.¹¹⁸ Generally, clinic students are assigned to one faculty supervisor for the term. On occasion they are introduced to another faculty member, such as during the classroom component.¹¹⁹ Contrast these norms with the Immigration Clinic model. In the Immigration Law Clinic, some students are supervised by their Attorney-Supervisors on one case and by me on another, while others are supervised by me alone. Generally, I solely supervise every student's work on at least one case during the course of the year, while also providing direct and

¹¹⁷ Here, the Clinic is reminiscent of Professor Condlin's description. See Condlin, *supra* note 109, at 63, 73.

¹¹⁸ Some law schools hire half-time clinicians, but that practice is less common today than it was even in the late 1980s. This is due to the assimilation of clinical faculty into regularized status on either a tenure track or something comparable to it. See ABA STANDARDS, *supra* note 7, Standard 405. Specifically, by the end of 1999, 134 of 183 schools reported that at least one clinician was tenured or on a tenure track, 31 reported at least one who was clinical tenured or on the clinic tenure track, 71 had at least one clinical faculty member on a long-term contract, and 112 had at least one clinical faculty on a short-term contract. Barry et al., *supra* note 3, at 31.

¹¹⁹ At Boston University School of Law's Legal Aid Program when I taught there in 1989-90, professors co-taught the classroom component.

ongoing assistance to the Attorney-Supervisors. During our first year of operation, eighty percent of the students were supervised for some portion of the school year by me,¹²⁰ and for the remaining period of time by other supervisors. Specifically, sixty percent were supervised half the time by a supervising attorney directly and the other half directly by me; forty percent were supervised generally by their supervising attorney, but with significant involvement from me and the clinic's paralegal. So, the overwhelming majority of students benefited by working with two supervisors, each of whom had differing levels of legal and supervisory experience.

Even when I am not acting as their direct supervisor, I engage in comprehensive conversations with the students about their cases. Much of the students' case preparation occurs within the walls of the Clinic. Because students meet me at a set time each week, and we are often working in the Clinic together,¹²¹ I am frequently present when students are making phone calls in their cases. They are able to seek out me or the Clinic paralegal for advice or moral support in handling a phone call, avoiding a "brush-off" by a bureaucrat, or solving a legal research problem. This physical proximity enhances the students' ability to gain insight from me while they work with Attorney-Supervisors who are not present regularly in the Clinic. The integration of student casework into the seminar also provides opportunities for me to assist in case supervision, even when I am not the direct supervisor. For example, our fall class discussions on preparing a trial notebook generally occur prior to any of the students having conducted their own hearings. Thus, when the first student is later preparing for a hearing, she frequently raises questions about preparing the trial notebook. At that time, I can review and reinforce the concepts taught in class. The same occurs in preparing direct and cross-examination. When we study this in class, most students have not yet planned a direct and cross for their own clients. As they do, the entire class becomes re-focused on studying the questions drafted, critiquing them, and offering revision assistance. Frequently students e-mail me drafts of their direct and cross-examination questions. Finally, submissions to Immigration Court, such as motions and memoranda or a brief to the Board of Immigration Appeals¹²² are often enhanced by in-class critique that supplements individual supervisor review. These

¹²⁰ Because our school had a relatively small student body (95 full-time equivalents), we only had five clinic students during our first year of operations.

¹²¹ The students are assigned their own carrel and computer in the student area; they tend to leave their backpacks, books, and coats at their carrels and to use their area as a "home away from home."

¹²² This is the administrative appellate tribunal for cases decided by immigration judges. 8 C.F.R. 1003.1(b) (2005).

methods of reinforcement provide a necessary supplement to the students' legal research and writing experience.¹²³

In addition to these student-initiated contacts, the Attorney-Supervisors and I often share case supervision responsibilities in formal and informal ways. Students' weekly memos, prepared for their supervisors in advance of their regular meetings, are copied to me.¹²⁴ When students prepare written work, conduct interviews, or attend hearings, they are observed and critiqued not only by their supervisors, but also frequently by me. Less formally, a supervisor and I may discuss possible theories for a case, including proof and other potential issues; then the supervisor and student will meet to work on their theory of the case. Later, as the student is pursuing the plan, she will discuss details of the work in class, as already mentioned, as well as with me individually; so will the supervisor. These communications, in both informal and more formal settings, provide the students with the best of all worlds, as they reap support and suggestions from me, from their Attorney-Supervisor, and from the various combinations of conversations occurring among us all.

This diversity in supervision benefits the students in several ways. They experience, first-hand, the variety of practices that characterize effective lawyering. In contrast to traditional in-house clinics in which a student is paired with one faculty supervisor and is directed for the duration of their clinical experience by only this person, Immigration Clinic students benefit by observing and participating in a variety of lawyering styles. They experience a myriad of ways of approaching and handling issues arising in a law office. They learn to be flexible and generous with themselves, a perspective that will serve them well when they are in their own practices. Not to be overlooked, they make multiple contacts with local attorneys that could aid them upon graduation, especially as many of them establish law practices in communities surrounding the Law School. These contacts may even help them attain employment,¹²⁵ especially if they choose to specialize in

¹²³ Our students must have completed at least 30 credits to enroll in Clinic. This could mean that second and third year day students find themselves in Clinic together with some upper-level evening students. Some, but not all, have completed in an upper level writing course. I have seen a wide variety of legal research and writing abilities in the Clinic. A revised curriculum, including a 4-semester legal writing program, will be instituted in the Fall of 2005. This will effectively eliminate the ability of all but senior law students to enroll in Clinic. An expected benefit of this change will be that Clinic students will be better prepared to tackle the research and writing aspects of individual representation.

¹²⁴ Since the Clinic's opening, I have required that a copy of these memos be provided to me, even from students working on cases with another supervisor. This enables me to remain abreast of their progress in their cases, and allows me to use the students' case experiences in the classroom.

¹²⁵ There is a convincing history at Southern New England of students procuring long-

immigration law.¹²⁶

The Clinic's design has helped us to achieve simultaneously several of our principal aims: to provide quality legal services to the local immigrant community; to attend to the learning continuum necessary for quality lawyering while also expanding the base of experienced immigration practitioners in the South Coast area; and to increase the "amount" and quality of justice afforded to the local immigrant community. Incorporating newer immigration attorneys into the Clinic not only has enabled us to accommodate more students than we would have otherwise,¹²⁷ but it has also had a quantifiable effect on our targeted community.¹²⁸ In addition to the legal services these numbers represent, the snowball effect of having more trained immigration attorneys in the community, especially in the legal remedies that are relevant to needy communities, will continue to inure to the benefits of those communities for years to come.

This support for life-long learning is particularly important in the immigration arena and for our law students and local lawyers, because many of them engage in or will engage in publicly-funded criminal representation. Today's criminal defense lawyers must be cognizant of the profound consequences that can befall immigrants with criminal convictions. For instance, recent changes in the immigration laws allow for some deportations to result in permanent bans on return to the United States.¹²⁹ Students and attorneys participating in the Clinic come to appreciate these consequences because we represent so many immigrants being deported for criminal convictions. Thus, in addition to ongoing client representation, the Law School is also providing important support to students and local practitioners likely to serve immigrant communities, so that they may help protect immigrants from the trauma of exile by unwarranted deportation.

term employment following impressive performance during clinical experiences. Several students with whom I remain in contact work in local legal services and district attorneys' offices as the result of programs engaged in during law school. A member of the Law School's Board of Trustees who has employed several of our graduates has publicly commended our students' hard work and success in his office. Clearly, our graduates are aware that they must make the most of their opportunities.

¹²⁶ This seems to be happening. Of the fourteen students we have taught to date, about seven plan to practice immigration law, and at least two are planning to work for non-governmental organizations or be involved in other aspects of international policy.

¹²⁷ See discussion about the origins of the Clinic, *supra* notes 87-107 and accompanying text; see also Barry, et al., *supra* note 3, at 28-29.

¹²⁸ Notably, during our first year of operation (2002-03), we handled ninety-five (95) inquiries in total; of those, fifteen (15) involved full representation to a hearing; eighty (80) required only brief service. During our second year (2003-04), we received a total of one hundred twenty one (121) inquiries; of those, ten (10) involved full representation; one hundred eleven (111) required only brief service.

¹²⁹ See 8 U.S.C.A. sec. 1182(a)(9)(A)(i) (West, 1970 & Supp. 1997).

C. Self-Critique: Enhancing the Model

As Robert Condlin has written, "[a] course must have educational integrity, and for clinical courses that integrity is found in a critical appraisal of lawyer practices and the relationship of those practices to justice."¹³⁰ In this section, I engage in a critical appraisal of the Blended Model, and share adjustments I have made to respond to some of its problematic aspects.

At the inception of the Clinic I had expected that a one-year commitment would be sufficient to train new supervisors in the law and principles of clinical supervision. However, for several reasons, by the middle of the first year I realized that a single year was insufficient. As a result, we have begun requiring supervisors to commit themselves to working with us for at least two years, and even encourage those newly practicing immigration law to accept a *pro bono* case prior to supervising a student. We found that devoting nine months to training new supervisors who would not be bringing the benefits of that training into a second year was an inappropriate use of the Clinic's resources. Further, we found that one year provided inadequate time for the supervisors to learn how to practice immigration law, guide students, and gain their confidence. The extended commitment is notably necessary for the inexperienced immigration attorneys among our supervisors, as immigration law is a markedly challenging area of practice. Thus, the reason so many lawyers find the field compelling is also the reason a new attorney cannot be expected to learn its substance sufficiently in one year to be able to also become competent supervising law students in a clinical program concentrating in immigration law.

A new supervisor who has more time to learn the law will inevitably gain the confidence necessary to become a successful clinical supervisor. To be sure, one's comfort level increases exponentially as the substantive law is mastered. This mastery permits the supervisor to relax into the role and work with her student without having to continually second-guess herself. To reach this point of "feeling" like a clinical instructor takes time; it takes knowing when to take more time with a case than one would take working on one's own; it takes learning how to provide effective critique; and it takes learning how to support insecure students who can then harness their knowledge on behalf of their clients. All of this is just too much to absorb in one

¹³⁰ Condlin, *supra* note 109, at 63 n.49. I hope that the degree of self-criticism which follows speaks to the educational integrity of the Immigration Law Clinic, and satisfies even skeptics like Professor Condlin that it is possible for clinical faculty to step back from their programs and devote substantial attention to critique and rejuvenation. *Id.* at 46, n.19.

nine-month period. By the time the attorney begins to feel competent in the law and to understand the basic tenets of clinical supervision, the school year is nearly spent.

Another reason for requiring extended commitments is to avoid the adverse responses of some students to fledgling supervisors. Particularly at schools like ours, where students sometimes lack certainty in their own abilities,¹³¹ it is critical to offer learning experiences that will help enhance their feelings of confidence. Placing them with inexperienced supervisors at a time of high anxiety, as they represent clients for the first time, does not serve this purpose. Evidence of the difficulty has become plain as tensions have arisen between students and the less-experienced supervisors.¹³² For example, conflicts arose during hearing preparations between one supervisor-student team when the supervisor was attempting to have the student set a timeline for pre-trial preparation. The student did not understand why all the case preparation was necessary. I spoke with the supervisor about the problem while it was ongoing; she was convinced that, while she was a confident and able attorney, her inexperience with immigration law was causing the student to be unresponsive to her considered attempts to supervise.¹³³ While some of this tension is expected during the pre-trial crush and anxiety most law students experience with their first cases, to be sure, a good deal of it was due to the student's lack of faith in an experienced attorney but inexperienced supervisor.¹³⁴

Another reason to require a commitment exceeding one year is that training new supervisors each year wastes our meager resources as well as those of the participating attorneys. The Clinic's resources include both my time and that of the paralegal to prepare training materials, plan and teach the orientation sessions, conduct monthly

¹³¹ Many of our students hail from immigrant families and are the first in their families to receive a graduate or even a college education.

¹³² These tensions were reflected in student evaluations. To be sure, some of the students' criticisms may not have been valid. It has been observed that students in clinics are "frequently judgmental, regularly evaluating the worth of their supervisors' ideas and suggestions, and the legitimacy of the motives behind them." Robert J. Condlin, *Learning from Colleagues: A Case Study in the Development Between "Academic" and "Ecological" Clinical Legal Education*, 3 CLIN. L. REV. 337, 373-74 (1997).

¹³³ The situation was described to me, at length and in detail, by the supervisor. I never did have a conversation with the student specifically about the incident, primarily because of issues of trust, but did speak with her generally about the appropriateness of the supervisor's expectations. This problem did not arise between the students and me, despite their awareness that I had spent several years as an academic and had not recently been actively engaged in immigration practice. Fair or not, because I am one of their professors, and the students see me as being "in charge" of the Program, they seemed to trust me more.

¹³⁴ The student's critique could have resulted, as well, from simple laziness, or unwillingness to do all that was necessary in the case. I cannot say which was the primary reason; there was some evidence of both.

meetings of the supervisors, and engage in innumerable phone, in-person, and email conversations. We found it unacceptable to bid these supervisors *adieu* nine months later and begin shortly thereafter to train new ones. We worry less about waning involvement of the experienced immigration attorneys, for they have many incentives to remain with us. Their participation is immediately rewarded by the work our students do with them on their cases. They already understand the substantive law. They *merely* have to become comfortable with the various theories and practices of clinical supervision.¹³⁵ If they enjoy the supervision, the challenges as well as rewards of working with eager, interested, hard-working law students will exceed in value the time they spend being trained. For the less experienced immigration attorneys, a longer-term commitment is also a more efficient use of their time. They can spend a few years with us, receive training *gratis*, and become experts in the intricacies of immigration law, with each year proving more rewarding. Along the way, they can acquire legal and supervisory skills that will enhance their professional lives.

This two-year commitment represents a significant improvement to the Clinic. Most notably, it enables us to prepare the supervisors more effectively for their important supervisory duties, and it likely will decrease the tension between the supervisors and their students.¹³⁶ This will encourage a "richness [in] the relationship between the supervisors and student"¹³⁷ that will inure not only to their benefit, but also to that of their clients. True, we may be disappointed if this change brings drawbacks such as fewer attorneys being willing to commit to working with us, as that will hinder our ability to train local lawyers and increase the number of area attorneys able to offer affordable representation in immigration law.

To involve in the Clinic those local attorneys who are either unable to commit to the longer-term supervision, we have added an option of incorporating attorneys who participate by handling a *pro bono* case through the Clinic.¹³⁸ For example, we are working with one local attorney who participated in our orientation training and

¹³⁵ I italicize the word *merely* to emphasize that it is an understatement. The Supervisors must enjoy it, as all of our experienced immigration Attorney-Supervisors who were with us at the inception of the clinic remain participants in the Clinic.

¹³⁶ While a decrease in this tension is expected, it will not and has not been eliminated; we notice clear preferences among the students for the more experienced immigration practitioners in the Clinic.

¹³⁷ Kreiling, *supra* note 8, at 300-06.

¹³⁸ This practice is similar to that employed by many legal services offices, which offer free training in an area of substantive law in return for an agreement to accept a *pro bono* case. Mentoring by experienced practitioners is usually offered to these volunteer attorneys. See discussion of the PAIR project, *supra* note 102.

supervisory meetings during our first year of operation but did not supervise; she returned during our second year to the orientation and attended some classes. At the conclusion of that year, she accepted a *pro bono* political asylum case. The clinic paralegal and I supervised her during that representation, which led to her accepting a student for supervision, more confident in her substantive understanding of political asylum law and in her ability to provide high-quality supervision.¹³⁹

One way we have tried to ameliorate the sense of being overwhelmed by their commitment to the Clinic is to offer our Attorney-Supervisors a stipend. These payments, while not substantial, were instituted during our second year of operation, hoping that they would demonstrate to the Attorney-Supervisors the appreciation the Law School administration has for their contribution to the Clinic. We also expect the stipend to have a secondary effect of inspiring the supervisors to attend to their students and cases as needed, and to the Clinic, by regularly attending our trainings and meetings.¹⁴⁰

A possible critique of the Blended Model can be found in the controversy surrounding the use of newer graduates as supervising attorneys in various in-house clinics around the nation. That criticism is founded on two principal arguments, only the second of which is relevant to the current discussion. The first is that the manner in which these clinicians are hired, generally as fellows on short-term, low-cost contracts, is a way for law school administrators to hire clinicians 'on the cheap.'¹⁴¹ In Southern New England's case, this critique is less apt, as the Attorney-Supervisors are already working in their own careers, are not reliant on the Law School for a substantial part of their professional compensation, and are not necessarily recently graduated.

A second objection is that newer graduates have neither the substantive expertise nor the maturity of legal experience to supervise

¹³⁹ We were even able to find an asylum case for supervision that involved the same country as was the subject of her *pro bono* case.

¹⁴⁰ Other issues concerning the Attorney-Supervisors have arisen, and will undoubtedly continue to surface. One example involves complications when a supervisor works for a public or private agency. Attorneys in these offices operate under pressures of backlogged cases and other bureaucratic concerns. Further, they often come to accept that the best lawyer is the one who handles the greatest number of cases. This assumption can raise conflicts when working in conjunction with a law school clinic, where the twin aims of educational value and client services are always being balanced. The limitations under which law school clinics operate can create tensions; one such limitation is that we do not accept new cases either during the summer or other school vacations. Nor are our students generally expected to work during school vacations. For this reason, social service agencies working with the local immigrant community could become frustrated with these limitations.

¹⁴¹ See *supra* note 112.

students effectively. This critique may also be leveled at the Blended Model, as we employ recent graduates who are frequently new to immigration law and universally new to clinical supervision. But this objection does not trouble me. First, training new lawyers in the community to work with indigent immigrants can only benefit that community. Second, the Law School is providing substantial value to those lawyers in the training not only in substantive law, but also in the skills and talents needed to be an effective clinical supervisor. These attorneys are not just building their own professional resumes; they are also developing additional skills for their own enhancement. Third, the work of Brook Baker and others suggests that the micro-management of law students' learning by clinical supervisors is not necessarily necessary to the law students' learning about lawyering.¹⁴²

CONCLUSION

One of the marvels of the clinical law programs found in the nation's law schools is their variety. At the end of his article describing the first year of a hybrid civil-criminal program at the University of Southern California Law School, Gary Bellow observed, "[a] single program which has functioned for only a year seems a narrow basis from which to draw any conclusion at all. The only thing we know . . . is how little we know."¹⁴³ In that early example of clinical scholarship, Professor Bellow expressed the wish that this "dialogue over clinical education itself may be the most important contribution that programs, such as [this one], can make to legal education and the profession."¹⁴⁴

Professor Bellow's wish, thirty-three years later, continues to be fulfilled. Dialogue about clinical education has helped craft the wonderful variety of law school clinical programs that surround us. The Southern New England School of Law's Immigration Law Clinic is a place through which the Law School and its students can serve local immigrants in need, thereby increasing the community's access to justice. Speaking about his experience in Minnesota, Professor Eric S. Janus¹⁴⁵ stressed that the "strength of the legal profession and legal education . . . has been their long-term, collaborative focus on public service."¹⁴⁶ This type of public service is one of the products of the

¹⁴² Brook K. Baker, *Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning*, 36 ARIZ. L. REV. 287 (1994); Brook K. Baker, Daniel J. Givelber, John McDevitt, & Robyn Miliano, *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1 (1995).

¹⁴³ Bellow & Johnson, *supra* note 5, at 695.

¹⁴⁴ *Id.*

¹⁴⁵ Janus, *supra* note 66.

¹⁴⁶ *Id.* at 81.

Immigration Law Clinic. Through the Clinic's incorporation of and support of local attorneys, our identified constituent communities – the students and local immigrants – are being served. In the process, we have helped ameliorate some of the unmet legal needs of the local immigrant community and therefore enhanced their access to justice.

As Professor Aiken stated, we are “poor people’s lawyers and . . . clinical teachers. . .”¹⁴⁷ She is right, and as such, we offer our students diligent and sometimes even inspired guidance through that great maze that is lawyering. Through our students, we can offer our communities and our clients diligent and sometimes even inspired lawyering. Occasionally, we can even help ease some suffering.¹⁴⁸

¹⁴⁷ Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL’Y. 63, 64 (2003).

¹⁴⁸ Examples of some of our successes, in this continually shrinking arena of immigrants’ legal rights, include the following: (a) A Canadian woman in her late 30’s who had been living in the United States nearly all her life was in deportation proceedings following two drug possession convictions. The student’s representation resulted in her deportation being terminated. Following the victory, the client, who had been in immigration detention for some time, was released. (b) Another student successfully represented a young man from Cuba, also in detention, in his political asylum case. (c) In a third case, a student was recently victorious in a deportation cancellation hearing for a 52 year-old woman from Guatemala who had been in the United States for over 20 years and had never committed any crimes. (d) One of our *pro bono* attorneys handled a case during a two-year period that recently led to another cancellation of deportation. Her client was a young man of impaired cognitive ability and little family support. These cases required the full panoply of representation, from appearing at pre-trial conferences; conducting legal and factual research; preparing documentation to support the claims, including testimony, from expert witnesses; and presenting the cases before an immigration judge.