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Clinical Legal Education: The History and Development of a Law Clinic

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CLINICAL LEGAL EDUCATION: THE HISTORY AND DEVELOPMENT OF A LAW CLINIC

ROGER S. HAYDOCK†

Professor Haydock examines the development and operation of the extensive clinical program at William Mitchell College of Law. He discusses the strengths and weaknesses, practical problems, and goals of the Law Clinic. He also analyzes the theories and concepts underlying clinical education. This Article provides a curricular guide for the creation and management of a successful and diverse Law Clinic.

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Dedication

The William Mitchell Law Clinic ranks as one of the most extensive and comprehensive clinical programs in this country. Many people have contributed to the development of this nationally recognized, award-winning clinical curriculum. The names of many of these individuals appear in this Article. Everyone who contributed should be acknowledged, but it is not possible to include every individual. This Article is dedicated to all the law students, faculty members, deans, clinic staff, college personnel, alumni, trustees, and other individuals who have supported, learned in, taught in, and cheered on the clinical program.

I. INTRODUCTION

A. Scope of Article

The educational philosophy of William Mitchell Law Clinic parallels the philosophy underlying clinical legal education.¹ Not only does the Mitchell curriculum focus on the traditional study and analysis of the doctrines and processes of the legal system but also on the examination and interpretation of lawyer behavior and law practice. Teaching students to practice law is as significant a part of the mission of the law school as is theorizing in the classroom.² A primary goal of the college is to integrate both the practical and theoretical aspects of law to better train and prepare

1. See Abbott, *A Primer on Clinical Legal Education*, 9 GA. ST. B.J. 443 (1973); Zander, *Clinical Legal Education*, 123 NEW LAW J. 181 (1973).

2. 1982-83 WILLIAM MITCHELL COLLEGE OF LAW BULLETIN 5.

graduates for the legal profession. Fulfilling this goal through a clinical education program provides students with a unique opportunity to learn how to be, think, act, and feel like lawyers. A clinical program both matches and enhances the reputation and tradition of Mitchell as a lawyer's law school.³

This Article traces the history and development of the William Mitchell Law Clinic.⁴ Courses involving live and simulated experiences constitute the clinical program at Mitchell and will be described. The first part of this Article—the history—chronologically describes the clinical offerings and explains when these clinics were integrated into the college curriculum as established and essential courses. The second part—the developments—details major clinical components and analyzes the philosophy, approach, operations, and results of the Law Clinic. The successes and failures of the clinical program are documented to provide a thorough and accurate account of the first ten years of clinical education at Mitchell.

We developed the clinical program at Mitchell by adapting its methods to new clinics. We learned by doing. We learned from our ideas, plans, mistakes, errors, and evaluations. We experienced what it is to be, think, act, and feel like clinicians. The experiences have been exciting, frustrating, fun, exhausting, depressing, and rewarding. The reactions and attitudes will be described periodically to provide a balanced explanation of what happened and why.

This Article addresses the central educational question: What are effective, efficient, and economic ways to integrate clinical education into the law school curriculum? Philosophical and pedagogical explanations that detail reasons why clinical learning methods are an essential and integral part of law school curricula will be minimal. That debate will be avoided because others have written in various forums justifying and criticizing clinical legal education.⁵

3. See 1950-51 ST. PAUL COLLEGE OF LAW BULLETIN, FIFTIETH ANNIVERSARY ISSUE, cover.

4. For description of other clinical programs, see Appendices in *Selected Summaries of Law School Clinical Programs*, 29 CLEV. ST. L. REV. 735 (1980).

5. See, e.g., Shaffer & Redmont, *Legal Education: The Classroom Experience*, 52 NOTRE DAME LAW. 190 (1976); Simon, *Homo Psychologicus: Notes on a New Legal Formalism*, 32 STAN. L. REV. 487 (1980).

B. Clinical Support

The faculty and administrations have always strongly supported the Law Clinic. Most of the faculty at Mitchell have had experience in law practice. Many teach a clinic course.⁶ The faculty recognizes the importance and need to include in a law school education the practical aspects of lawyering in addition to conceptual legal theories. Similarly, the college deans have viewed clinical education as an essential component of legal education.⁷ They backed their views with money and resources to develop a highly effective clinical program. At Mitchell, clinical courses have been and are perceived as on a par with the traditional law school courses. The curriculum reflects this balance.⁸

Adjunct faculty form an integral part of the William Mitchell Law Clinic.⁹ Adjunct faculty include experienced practitioners and members of the Twin Cities bench and bar, whose availability and commitment have been a key factor in the formation of the clinical program. These adjuncts are selected, trained, and monitored by the full-time faculty.

Interested trustees, alumni, and students also contributed to the successful development of the Law Clinic. The trustees, through their support of clinical education, have promoted the college's goal of training lawyers for the practice of law. Alumni, the majority of whom practice, have likewise supported clinical education and its emphasis on integrating practice with theory. Many alumni, now leaders in the bench and bar, believe the clinic method is an essential component of legal education. The thousands of students who have benefitted from the clinical courses at Mitchell provide much of the impetus to sustain the clinical program at Mitchell.

II. HISTORY

A. Introduction

The college's initial clinical efforts included a Moot Court course, an Advocacy Seminar, and a Legal Drafting and Writing

6. *See supra* notes 111-15 and accompanying text.

7. These deans include Deans Douglas Heidenreich, Bruce Burton, Geoffrey Peters, Melvin Goldberg, and Associate Deans Curtis Stine, Marvin Green, Robert Oliphant, and Marcia Gelpe.

8. The college currently offers approximately 140 courses, 30 of which are clinic fieldwork or skills courses.

9. *See supra* notes 116-17 and accompanying text.

course.¹⁰ Prior to 1972, Mitchell required students to take a 4-credit course in Moot Court that required students to try a moot jury trial including preparing pleadings, motions, and discovery documents. Students could also take an elective Advanced Advocacy Seminar, to try a second jury trial and argue a moot supreme court appeal. Other required courses involving skills training included courses in Legal Drafting and Legal Writing. Under the direction of adjuncts, students drafted legal documents and composed letters, memos, and briefs.

In the early seventies, the college offered the first clinical fieldwork experience involving actual clients. The Poverty Law Seminar afforded students "clinical experience working with Legal Aid programs."¹¹ Attorneys with both Legal Assistance of Ramsey County and the Legal Aid Society of Minneapolis supervised students who represented legal aid clients.¹² In addition, the first courses that involved simulated exercises in interviewing, counseling, and negotiating were offered.

The first year of formalized clinical education at Mitchell was 1972.¹³ During the 1973 spring semester the college offered two clinical courses, a criminal law clinic and a civil practice clinic.¹⁴ For the first time in a course for credit, Mitchell students studied lawyering skills and represented actual clients with criminal or civil problems. The students interviewed, counseled, and represented indigent clients, under the auspices of the Minnesota Student Practice Rule which authorized student representation under the direct supervision of an experienced, supervising attorney.¹⁵ Nineteen Mitchell students took the criminal clinic, and six students experienced the civil clinic. These initial clinical offerings provided the transition for the beginning of Mitchell's own clinical program the following fall.

10. 1971-72 WILLIAM MITCHELL COLLEGE OF LAW BULLETIN 28.

11. 1972-73 WILLIAM MITCHELL COLLEGE OF LAW BULLETIN 31.

12. Students represented indigent clients in cases involving housing, welfare, and consumer law problems.

13. Dean Douglas R. Heidenreich asked Professor Roger S. Haydock and a committee of students to develop the framework for a clinical program at Mitchell. Some of the students, who were graduating seniors, wanted to implement clinical courses immediately to benefit from the clinical learning experience.

14. The college retained Professor Robert E. Oliphant, then professor of law and director of the clinical program at the University of Minnesota Law School, to coordinate the clinic offerings and to supervise Mitchell law students with the assistance of supervisory attorneys.

15. MINN. STUDENT PRACTICE R. 1,2 (1982).

During the 1972-1973 academic year, the Clinic Committee reviewed and considered the creation of a clinical program.¹⁶ The committee quickly concluded that a need for clinic courses existed. That "learning by doing" was an ideal way to learn the law and the lawyering process seemed obvious.¹⁷ The committee focused its attention on alternative ways to provide clinical experience¹⁸ and recommended that the college create its own law clinic. The college hired two new full-time faculty¹⁹ to teach and administer clinic courses and also hired clerical support staff.²⁰ Several students, who had taken one of the clinical courses in the spring of 1973, were retained as student directors to assist with the creation and development of the clinical program.²¹

The creation of the William Mitchell Law Clinic resembled the start of a law office. Many matters needed attention including sources of clients and physical space. An arrangement with the Ramsey County Public Defender permitted students to represent indigent defendants accused of misdemeanor crimes. The college contracted with Legal Assistance of Ramsey County to obtain access to clients with civil and welfare problems. Because the law school building did not have sufficient space for offices, the clinic was located initially in a house bequeathed to Mitchell by a neighbor.²²

16. 14 OPINION 3 (Nov. 1972).

17. See COUNCIL ON LEGAL EDUCATION AND PROFESSIONAL RESPONSIBILITY, CLINICAL EDUCATION FOR THE LAW STUDENT: LEGAL EDUCATION IN A SERVICE SETTING (1973).

18. One option provided for a joint clinical program with the University of Minnesota Law School. A second proposal provided for the creation of a William Mitchell Law Clinic.

19. Professor Roger S. Haydock, a full-time faculty member, was appointed to be the clinical director to teach civil clinics. Rosalie E. Wahl, then a lawyer with the State Public Defender and adjunct professor at the clinical program at the University of Minnesota, was appointed as the second full-time clinical professor to direct and teach criminal law clinics.

20. Alberta Dowlin, an experienced legal secretary and then the office manager of Legal Assistance of Ramsey County, was hired to be the administrator/secretary of the law clinic.

21. These eight students were: Steve Doyle, William Hibbard, Tina Isaacs, Ross Kramer, Sandra Neren, Warren Oskey, James Swanseen, and Robert Varco.

22. At that time, the law school was located at 2100 Summit Avenue in an overcrowded building with no room for additional faculty or clinic offices. While alternative locations were being considered, a neighbor of the college, John Webster, died and bequeathed his home, adjacent to Mitchell, at 2093 Grand Avenue.

B. *The First Year: 1973-1974*

The clinic courses at Mitchell were based on the practice experience of the faculty, on notions of clinical education, on the limited clinic literature,²³ on courses offered at various law schools, and on CLE programs through the Legal Services Corporation and the National Institute for Trial Advocacy.²⁴

1. *Civil Litigation, Criminal Practice, and Appeals Clinics*

Four clinical courses were offered in the fall semester. A Criminal Law Clinic allowed the students to appear at arraignments, investigate cases, prepare trial memos, plea bargain sentences, and participate in trials.²⁵ A Civil Practice Clinic afforded students the opportunity to interview and counsel clients with problems involving consumer, housing, and employment laws and subsequently negotiate or litigate solutions to these problems.²⁶ A Welfare Law Clinic permitted students to represent clients in administrative appeals.²⁷ A Criminal Appeals Clinic allowed students to prepare an appellate brief in cases on appeal to the Minnesota Supreme Court.²⁸ Seventy senior students registered for the four pioneer

23. Anderson & Kornblum, *Clinical Legal Education: A Growing Reform*, 57 A.B.A. J. 591 (1971); LaFrance, *Clinical Education: "To Turn Ideals Into Effective Vision,"* 44 SO. CAL. L. REV. 624 (1971); Oliphant, *Reflections on the Lower Court System: The Development of a Unique Clinical Misdemeanor and a Public Defender Program*, 57 MINN. L. REV. 545 (1973); Vetri, *Educating the Lawyer: Clinical Experience as an Integral Part of Legal Education*, 50 OR. L. REV. 57 (1970); *Clinical Education and N.Y.U.*, 24 J. LEGAL EDUC. 429 (1972); *Clinical Education and the Law School of the Future*, U. CHI. CONF. SERIES NO. 20 (1970).

24. During the early 1970's two major national programs influenced the development of clinical curriculums. The Legal Services Training Program with the Office of Economic Opportunity and its successor department, the Office of Program Support with the Legal Services Corporation, initiated skills training programs for legal services lawyers in the areas of interviewing, counseling, and negotiating. The National Institute for Trial Advocacy began its "NITA" method by providing training programs to lawyers in trial advocacy. Both these programs pioneered learn-by-doing teaching methods.

25. Professor Rosalie E. Wahl taught this clinic with the assistance of supervisory attorneys with the public defender office in Ramsey County. Professor Phebe Haugen currently teaches this clinic.

26. Professor Roger S. Haydock taught this clinic with the assistance of William H. Crowder and other supervisory attorneys with Legal Assistance of Ramsey County. Over the years, other full-time supervisory attorneys included Angela McCaffrey, Joel Fisher, and Al Lassen.

27. Mark Reinhardt, an attorney with Legal Assistance of Ramsey County, and Kent Allin, a paralegal with LARC, supervised the students. William Crowder presently teaches this course.

28. Attorneys with the State Public Defender office assisted with the supervision of these students. Mary Steenson and Robert Goodell currently teach this clinic.

clinical offerings. The clinic faculty, staff, and student directors²⁹ made adjustments in the fieldwork and course work for the second semester. Increased student demand prompted the offering of three additional courses for the spring semester.

2. *Consumer Law, Civil Rights, and Prisoners' Assistance Clinics*

In the second semester of the first year, clinics were added in consumer law, civil rights, and prisoners' assistance. Students interned with the Consumer Division of the Minnesota Attorney General's Office, investigating complaints, researching problems, and arbitrating disputes under supervision.³⁰ Also, students interned with the Minnesota Human Rights Department and investigated complaints and assisted with conciliation hearings. Students conducted fact interviews and prepared for and conducted conciliation efforts designed to resolve discrimination disputes.³¹ Fieldwork experience included work on cases with the Minnesota Civil Liberties Union.³² In addition, students represented clients through Legal Assistance to Minnesota Prisoners (LAMP).³³ The students interviewed the prisoners at the prisons and handled civil and institutional complaints.

3. *Summer Clinics*

Mitchell conducted its first summer session which included clinical courses in 1974. Clinics offered during the year were modified to provide a concentrated clinical experience during the eight weeks of summer school. The courses offered included a Civil Clinic, a Prosecution Clinic, and the LAMP Clinic.³⁴ These clinics

29. The student directors assisted with the administration of clinical courses, provided guidance to students, coordinated the scheduling of interviews and trials, edited clinic manuals, and acted as liaisons between supervisory attorneys and students.

30. Robert Herr, an Assistant Attorney General, and other staff attorneys supervised the fieldwork. This clinic's fieldwork now consists of the representation of individual clients with consumer problems.

31. Richard Varco, an attorney with the Minnesota Human Rights Department, supervised the students.

32. Michael Weatherbee, an MCLU staff attorney, coordinated the litigation fieldwork.

33. Professors Melvin Goldberg and James Cullen, Co-Directors of LAMP at the University of Minnesota Law School, supervised the students with the assistance of Mary D. Winter.

34. William Crowder taught the Civil Clinic; Martin Costello taught the Prosecution Clinic; Melvin Goldberg and James Cullen taught the LAMP Clinic with the assistance of Mary D. Winter. Lawrence Hammerling presently teaches the Legal Services to Minnesota Prisoners Clinic.

provided students who had employment conflicts or other time demands during the fall and spring semesters with an opportunity to experience a clinic.

C. *The Second Year: 1974-1975*

During the summer of 1974, the first year clinics were reviewed and revised to improve the existing efforts. New clinics were also created. The Student Practice Rule at that time permitted only law students in their last year to represent clients under supervision.³⁵ A proposal to the Minnesota Supreme Court requested that the rule be amended to permit students in their final two years to be eligible for certification under the rule. In September, 1974, the supreme court amended the rule, permitting third and fourth year students at Mitchell to be eligible for student practice.³⁶ Coupled with the high demand for clinical courses by Mitchell students, the amendment allowed the clinical program at Mitchell to expand. It was decided to repeat clinics offered the previous year with some of them being expanded. Further, new clinics were offered to satisfy demand and to provide students with clinical experiences in additional areas of the law.

1. *Bankruptcy, Legislation, and Poverty Law Clinics*

Six new clinics were offered during the 1974-1975 academic year. In the fall, clinics were offered in bankruptcy, legislation, and poverty law reform areas. In the Bankruptcy Clinic students interviewed and counseled consumers with debt problems and represented them in bankruptcy proceedings.³⁷ In the Legislation Clinic students drafted legislative proposals and lobbied their passage through the Minnesota legislature, which involved fieldwork at the state capitol when the legislature was in session.³⁸ A Poverty Law Clinic focusing on judicial law reform efforts provided students an opportunity to be involved in complex federal court litigation.³⁹

35. RULES OF THE SUPREME COURT FOR APPEARANCE OF LAW STUDENTS, 4 MINN. STAT. 5960 (1971).

36. *Student Practice Rules*, PROFESSIONAL RULES FOR ATTORNEYS AND JUDGES (1982).

37. William Kampf and James Levy initially taught this clinic which is still taught by William Kampf.

38. Peter Lindberg and Ross Kramer supervised students in this course. This clinic is now supervised by Ross Kramer and Kevin Snell with the assistance of Sandra Neren.

39. Bruce Beneke, George Shirley, George Rehm, and Mark Bohnhorst supervised students in this course.

2. *Felony Law, Mentally Handicapped, and Independent Clinics*

The following spring semester, the Felony Law Clinic was offered.⁴⁰ Students appeared at pre-trial hearings and second-chaired felony trials. The Mentally Handicapped Clinic was also inaugurated.⁴¹ Students represented clients facing commitment because of alleged mental illness or addiction to alcohol or drugs. Both clinics provided opportunities for students to interview clients, investigate facts, prepare for a trial or hearing, conduct direct and cross-examination of lay and expert witnesses, and orally argue a case.

D. *The Third Year: 1975-1976*

The clinics offered during the second year were repeated in the third year with modifications suggested by a faculty curriculum study. Student demand for clinical courses continued to increase and four new clinics were added to the curriculum.

1. *Juvenile Law, Workers' Compensation, Military Law, and Family Law Clinics*

A Juvenile Law Clinic was started as a companion course to the Juvenile Law Seminar. In this clinic students were able to represent juveniles in neglect and dependency hearings.⁴² A Workers' Compensation Clinic allowed students to represent injured clients with claims before the workers' compensation courts and to assist with the trial of such cases.⁴³

The efforts of two groups of students led to the development of two additional clinics. Several students who had an interest in veteran's rights coordinated the start of a Military Law Clinic.⁴⁴ Students in this clinic interviewed and counseled veterans who left the service with less than an honorable discharge and represented them at administrative hearings. Another group of students helped initiate an Independent Clinic in Family Law in which stu-

40. William Falvey and Ted Rix taught this clinic. The clinic is now taught by James Morrow and Barbara Kehrberg.

41. Dolores Orey, with the assistance of Lisabeth Nudell, supervised students and taught the course. The clinic is now taught by Susan Lentz.

42. Professor Bernard Becker initially taught this clinic, now coordinated by Professor John Sonsteng and supervised by Lane Ayres.

43. Thomas Longfellow taught and still teaches this clinic, assisted by Jason Forsman and Jennifer Patterson.

44. Gene Kelly supervised this clinical offering. This course was offered for two years until student interest and the number of clients dwindled.

dents interviewed, counseled, and represented clients with dissolution and related problems.⁴⁵ Student interest and enthusiasm for the clinic method encouraged the advent of these new clinics.

2. *New Clinic Offices*

New physical facilities permitted the clinic to grow.⁴⁶ In the fall of 1976, the college moved into a remodeled building that provided adequate and appropriate space for faculty offices, a staff suite, student director offices, interview rooms, student work space, a clinic conference/meeting room, and video recording and play-back rooms.

E. The Fourth Year: 1976-1977

The college curriculum continued to provide students with an extensive and diverse number of two to four credit clinical opportunities during the fall, spring, and summer semesters. Each clinic provided unique learning experiences. All clinics mixed skills with substantive law, procedural matters, and professional responsibility issues; but the emphasis of these elements varied from clinic to clinic.

1. *Clinical Course Reform*

Discussions among faculty members and clinicians resulted in changes the following academic year. Many clinical offerings during the first three years consisted of both weekly classroom seminars and fieldwork. The clinical faculty taught and supervised both components. Most seminars included regular discussions of substantive and procedural law. Other seminars emphasized skills with simulated exercises and videotaped critiques. Clinic fieldwork consisted of the actual representation of clients and periodic individual and group meetings to discuss cases.

The clinical courses were restructured and subdivided into separate courses. Clinic fieldwork courses were designed to comprise eighty to ninety percent fieldwork, including client or case representation, evaluation, and supervision conferences with the balance of the clinic course consisting of class meetings discussing the

45. Earl Beddow and Lila Shapero taught this clinic. Earl Beddow continues to offer the clinic.

46. For a description of physical facilities of various law clinics, see *Law School Teaching Clinics: Plans and Pictures*, COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY (1977).

law or performing the skills involved. Clinic skills courses were created as prerequisite or concurrent requirements for the fieldwork clinics. Three major skills courses were designed in civil practice, trial advocacy, and criminal tactics. Each of these courses involved a review of the policies, theories, and ethics underlying the particular skills; classroom analysis of live or videotaped demonstrations; exercises in which the students practiced skills; and videotaped critiques of the individual student performances. One hundred to three hundred students registered for each of these courses, which were taught by full-time professors with the assistance of adjunct instructors. The Trial Advocacy course was and still is a required course for all students.⁴⁷

F. The Fifth Year: 1977-1978

Fourteen clinic courses were offered in the fall semester and sixteen in the spring semester. This academic year also included a change in clinical professors.⁴⁸ Rosalie E. Wahl, with the Law Clinic since its inception, was appointed as the first woman member of the Minnesota Supreme Court. Her selection was also the first appointment of a clinician as a state supreme court justice in this country.

1. Corporate Law Clinics

Two new clinic offerings provided opportunities to Mitchell students in the corporate area. These clinics were in the corporate law and securities regulation areas of practice. A full-time faculty member administered and supervised the placement of student interns in corporate law departments and monitored their work, studies, and experiences.⁴⁹ These clinics expanded Mitchell's clinical education into the corporate and business legal world.

2. Student Legal Services

Another new clinic provided representation to college students through the Student Legal Services Clinic which was established as a pilot project with Macalester College in St. Paul.⁵⁰ Ma-

47. Professors Roger S. Haydock and John O. Sonsteng teach this course along with Professor Robert E. Oliphant. Adjunct instructors who have assisted with this course for more than five years include Ann Alton, Kevin Burke, Stephen Doyle, William Kennedy, Harold Schultz, and Gordon Shumaker.

48. Professor Phebe Haugen replaced Justice Rosalie E. Wahl.

49. Professors Walter Anastas and Andrew Haines have taught this clinic.

50. Clinical Director Roger S. Haydock supervised the students who represented the

Maalester students with legal problems were interviewed and counseled by Mitchell clinic students. Initially, this program limited representation to legal advice and attempts to resolve matters through negotiation. The Student Community Council contracted with and paid Mitchell a fee for the representation of students.

The success of the pilot project resulted in a proposal to four private local colleges recommending a broad scale group legal services plan providing representation for all college students.⁵¹ The proposal included a budget for a full staff of supervisory attorneys, a secretary, and student directors to be paid from mandatory fees collected from the college students at a rate of \$3 per student per semester. Unfortunately, the colleges declined to increase student fees and did not implement the plan.

G. *The Sixth Year: 1978-1979*

Over 300 students participated in one or more of the clinical fieldwork courses offered during the 1978-1979 academic year. Another 650 students took one or more of the skills courses in trial advocacy, civil practice, and criminal representation. Two new fieldwork clinics were developed, and two others were expanded.

1. *Administrative Law and Judicial Intern Clinics*

The Administrative Law Clinic involved students directly in administrative processes.⁵² Students worked with state hearing examiners on both rule-making proceedings and contested adjudicated cases.⁵³ Duties included researching the issues in a case, attending hearings, discussing the case with the examiner, and writing a draft of recommended findings and conclusions. Class discussions consisted of students sharing their experiences and analyzing the administrative law system.

In the Judicial Intern Clinic,⁵⁴ students clerked for local federal district and state district court judges. Students participated in

Maalester students. The program continued for a couple of years until the Maalester student government decided to apply its limited financial resources elsewhere.

51. 20 OPINION 2 (Feb. 1978).

52. Professor Melvin Goldberg coordinates this clinic.

53. Duane Harves, head of the State Office of Hearing Examiners, assists Professor Goldberg in this clinic.

54. David Herr and Rebecca Rom, two former law clerks, were the initial adjunct clinical professors and continue to teach this clinic. See Herr, *Supervised Judicial Clerkships: A Valuable Clinical Experience*, 9 WM. MITCHELL L. REV. 151 (1983).

the full range of judicial clerk activities: they observed trials, chamber conferences, and hearings; they researched issues, drafted memos and opinions, and assisted the judge in making decisions. Class discussions focused on the roles of the various participants in the judicial process, the ethical situations affecting the judiciary, and the various factors that influence decisions.

2. *Expanded Clinics*

Expansion of the Corporate Practice Clinic allowed a larger number of students to become involved in the operations of corporate law offices. This externship program placed students in the corporate law department of a major company, supervised by an adjunct supervisory attorney. The corporate supervisory attorney together with the student and full-time faculty member designed the fieldwork curriculum.⁵⁵ Class meetings focused on the role of the corporate attorney, common ethical dilemmas, and alternative corporate law practices.

The Federal Department of Health, Education and Welfare Law School Clinical Experience Program Grant⁵⁶ provided funding for a Juvenile Law Clinic. Students in this clinic represented clients in delinquency and dependency and neglect proceedings under the supervision of full-time faculty and adjunct supervisors.⁵⁷

H. *The Seventh Year: 1979-1980*

Three hundred more students took one of the thirty clinic courses offered during the fall, spring, and summer semesters. The college was able to meet much of the student demand for clinical experiences but was unable to accommodate all student interests.

1. *Independent Clinic*

The seventh year of the program saw the advent of the Independent Clinic. Students were allowed to design their own individual clinics in areas where the college did not offer a clinic. The requisites for each independent, student-designed clinic include fieldwork, reading materials, periodic individual meetings with the supervisory attorney, and supervision by a full-time faculty mem-

55. Professor Andrew Haines currently teaches the clinic.

56. See 20 U.S.C. §§ 1134n-1134p (1983).

57. Professor Bernard Becker initially taught this clinic. The college later appointed a new full-time faculty professor, John Sonsteng, to teach the clinic.

ber. Independent clinics have been approved for one to four credits in the areas of hospital administration law, Indian rights, securities regulation, and real property matters.

I. The Eighth Year: 1980-1981

This academic year, 312 students took a clinical course with forty-one participating in one of the six summer clinics. The number of faculty teaching primarily in the clinic area increased to five.⁵⁸

1. Elderly Law and Tax Clinics

An Elderly Law Clinic was added to provide students an opportunity to represent elderly clients in administrative proceedings.⁵⁹ A new clinic in the tax area was initiated in which students represented clients in IRS hearings to determine tax liability.⁶⁰

J. The Ninth Year: 1981-1982

More students registered for fieldwork clinic courses in the 1981 fall semester than in any previous semester; over 150 students represented clients or cases.

1. Labor Law, Estate Planning, and Attorney General Clinics

Three new clinics were created during the 1981-1982 academic year. A Labor Law Clinic allowed students to intern with a labor law expert in arbitration proceedings.⁶¹ An Estate Planning Clinic was offered with the assistance of practicing estate lawyers who supervised student interns.⁶² The Attorney General Clinic was established. Students interned with various legal departments and were supervised by assistant attorneys general.⁶³ The Attorney General Clinic provided Mitchell students with experiences available only in an externship program.

58. William Crowder and F. Allen Hester joined the faculty and Professors Haydock, Haugen, and Sonsteng to teach in the clinic and supervise fieldwork courses.

59. Professor F. Allen Hester taught this clinic and an elderly law seminar.

60. Professor Curtis Stine teaches this clinic, assisted by adjunct supervisor Jerome Geis.

61. Professor Christine Ver Ploeg administers this clinic.

62. Professor Robert Helland coordinates this clinic.

63. Thomas Kenyon teaches this clinic with the assistance of other assistant attorneys general.

2. *Legal Research and Writing*

The first-year Legal Research and Writing course was increased from three to four credits, effective for the following academic year. The additional credit provided more time for first year students to engage in writing exercises and oral argument presentations. Faculty professors prepared innovative research and writing study guides to afford students more effective learning exercises.⁶⁴

3. *Additional Clinical Experiences*

The college continued to offer additional simulated exercise experiences for students in the national Moot Court, Client Counseling, and Trial Advocacy competitions. Student boards, faculty advisors,⁶⁵ and clinic staff coordinate the efforts of these organizations. Students may receive credit for participating in one or more of these competitions.

K. The Tenth Year: 1982-1983

The 1982-1983 academic year marked the tenth anniversary of the Law Clinic. This anniversary year began with the largest semester enrollment of students in simulated clinic courses. Four hundred and two students registered for one of three major simulated courses, and another 120 students completed three other courses that involve simulated exercises.

1. The Foundation for Legal Assistance, Research, and Education

The one new clinical course offered in the fall was a revised Mental Health Law Clinic. The college and the Foundation for Legal Assistance, Education, and Research have begun a cooperative clinical experience in which students under supervision of a clinician provided legal services to clients confined to a state mental hospital.⁶⁶ The State of Minnesota has made funds available to operate this clinic.

2. Public Interest Law and United States Attorney Clinics

Two new clinics were offered in the spring semester. A Public

64. Professors Christina Kunz, Peter Erlinder, and Deborah Schmedeman administer this program and supervise the adjuncts.

65. Professors John Sonsteng, Douglas Heidenreich, Paul Marino, and Russell Panier are faculty advisors.

66. Professor Melvin Goldberg coordinates this clinic. Susan Lentz supervises the students.

Interest Law Clinic, supervised by attorneys with the Minnesota Public Interest Research Group (MPIRG), provided students with an opportunity to become involved in the intricacies of public interest law advocacy.⁶⁷ This new clinic provides balance to our clinical program by offering law students experience in law reform cases. The second new clinic offering was the United States Attorney Intern Clinic. Students became involved in civil and criminal cases under the supervision of federal government lawyers.⁶⁸

III. DEVELOPMENT

During the 1970's the Council of Legal Education and Professional Responsibility (CLEPR) published a directory of law school clinical programs. This directory consistently ranked the William Mitchell Law Clinic at the top among all law schools with respect to the number of clinic courses offered each academic year, the number of clinics offered in different areas of the law, and the number of students who received credit for clinical experiences.⁶⁹ This ranking reflected the growth of the clinical program and enhanced the growing local, regional, and national reputation of the Law Clinic.

Over the past decade, fieldwork clinics have been developed in the following seven areas:

1. Advocacy clinics in which students represent civil and criminal clients in all phases of the litigation process from the initial interview through the court or jury trial.⁷⁰
2. Specialized practice clinics in which students focus on both the substantive law and procedures involved in specialty areas of private practice.⁷¹
3. Public law clinics in which students represent clients and study public policy issues.⁷²
4. Business law clinics in which students obtain fieldwork ex-

67. MPIRG attorneys E. Gail Suchman and Daniel Lass supervised the students with the assistance of Lawrence McDonough, a student director.

68. James Morrow administers this clinic.

69. CLEPR, Survey and Directory of Clinical Legal Education, 1976-1977.

70. These include Civil Clinic, Civil Litigation Clinic, Criminal Law Clinic, Felony Law Clinic, Legal Services to Minnesota Prisoners Clinic (formerly LAMP Clinic), Misdemeanor Clinic, and Prosecution Clinic.

71. These include Bankruptcy Clinic, Estate Planning Clinic, Family Law Clinic, Government Benefits Clinic, and Workers' Compensation Clinic.

72. These include the Attorney General Clinic, Civil Rights Clinic, Consumer Law Clinic, Elderly Law Clinic, Housing Law Clinic, Juvenile Law Clinic, Mentally Handicapped Clinic, Poverty Law Clinic, Public Law Interest Clinic, and Welfare Law Clinic.

- periences in corporate practice, labor law, and tax areas.⁷³
5. Judicial process clinics in which students gain personal experience in the judicial resolution of disputes.⁷⁴
 6. Administrative process clinics in which students experience the laws and procedures involved in administrative proceedings.⁷⁵
 7. Legislation process clinics in which students become involved in the legislative branch of the government.⁷⁶

Some of these categories and clinics overlap. Different aspects of clinical experiences are emphasized in the various clinics. The focus of a particular clinic depends upon its specific methods, objectives, and scope.

The "clinical method" at Mitchell has always consisted of the learning-by-doing pedagogical approach to legal education.⁷⁷ Clinic courses involve students in either simulated skills exercises or live fieldwork situations in which they become personally involved in what it is that lawyers do.⁷⁸ These courses have been designed and continually refined to provide students with numerous educational objectives and opportunities to:

1. Develop basic legal concepts introduced in other courses;
2. Enhance student recognition of issues and the synthesis of legal subjects;
3. Creatively formulate legal theory to serve clients' interests;
4. Enhance student's ability to analyze, question, reflect, pose alternative solutions, choose appropriate remedies, and implement decisions;
5. Learn substantive law;
6. Better understand process and procedure and legal systems;
7. Learn lawyering skills, tactics, and strategies, including interviewing, counseling, negotiating, writing, researching,

73. These include Corporate Practice Clinic, Labor Law Clinic, Securities Regulation Clinic, and Tax Clinic.

74. These include Judicial Intern Clinic and Criminal Appeals Clinic. See Herr, *Supervised Judicial Clerkships: A Valuable Clinical Experience*, 9 WM. MITCHELL L. REV. — (1983).

75. These include Administrative Law Clinic and Military Law Clinic.

76. This includes the Legislation Clinic.

77. See Gee & Jackson, *Bridging the Gap: Legal Education and Lawyer Competency*, 1977 B.Y.U. L. REV. 695.

78. See Menkel-Meadow, *The Legacy of Clinical Education: Theories About Lawyering*, 29 CLEV. ST. L. REV. 555 (1980).

- drafting, investigating, discovery, preventive law planning, litigation, advocacy, mediation, arbitration, and appellate practice;
8. Represent clients;
 9. Apply the standards embodied in professional responsibility to develop a coherent and personalized system of ethical conduct;
 10. Learn by reflecting on what they have done and what they could have done;
 11. Critique their own and others' performances and activities;
 12. Become sensitive to their responsibility to serve public and private interests;
 13. Provide pro bono representation to clients unable to afford lawyers;
 14. Address complex issues involved in social justice;
 15. Explore what it means to be, act, think, and feel like a lawyer;
 16. Develop competencies in lawyering skills; and
 17. Learn a method to self-evaluate professional career performance.⁷⁹

Not all clinics provide students with all of these opportunities. Some clinical instructors emphasize some learning situations and de-emphasize others. Some students learn more in one clinic than another. The type of clinic also affects what individual students learn.

Simulated courses permit a more structured and controlled learning environment. Live fieldwork courses provide more realistic opportunities to act like a lawyer.⁸⁰ Simulation permits a focus on specific learning situations and ensures uniform evaluation exercises. Fieldwork provides opportunities for students to become

79. For articles discussing these educational goals, see Redlich, *Lawyering Skills Can Be Taught*, 3 LEARNING L. 10 (1976); CLINICAL EDUCATION FOR THE LAW STUDENT, CLEPR CONF. PROC., BUCK HILL FALLS (1973); SELECTED READINGS IN CLINICAL LEGAL EDUCATION, CLEPR & INT'L LEGAL CENTER (1973); see also Brown, *Prefatory Remarks*, 29 CLEV. ST. L. REV. 372 (1980); Burger, *The Role of the Law School in the Teaching of Legal Ethics and Professional Responsibility*, 29 CLEV. ST. L. REV. 377 (1980); Clare, *Law School Never Stops*, 29 CLEV. ST. L. REV. 663 (1980); Devitt, *Why Don't Law Schools Teach Law Students How to Try Cases*, 29 CLEV. ST. L. REV. 631 (1980); Ehrlich, *Charles H. Miller Lecture—Lawyers and Their Public Responsibilities*, 46 TENN. L. REV. 713 (1979).

80. See Allison, *The Evaluation of a Clinical Legal Education Program: A Proposal*, 27 VAND. L. REV. 271 (1974); Bird, *The Clinical Defense Seminar: A Methodology for Teaching Legal Process and Professional Responsibility*, 14 SANTA CLARA LAW. 246 (1974).

involved in unpredictable situations, to interact with actual clients, witnesses, and lawyers, and to study these variables.⁸¹

The simulated clinic courses at Mitchell employ several basic learning methods in which students:

1. Read books and materials explaining the theory and practice involved with particular skills;
2. Observe and discuss videotaped performances by lawyers performing particular skills;
3. Complete written assignments to prepare themselves for their performance;
4. Perform portions or entire segments of skills exercises in small groups or individual settings;
5. Listen to a critique of their performance or observe a videotaped replay of their performance coupled with an individual critique;
6. Observe other students perform exercises and listen to their critiques; and
7. Observe and critique videotaped performances of attorneys who perform the same skills the students performed.⁸²

The simulated courses in trial advocacy, civil practice, criminal practice, discovery, and advanced trial advocacy offer students much more than a "skills" experience. These courses integrate the substance, procedure, process, ethics, and reality with the particular skill emphasized. The students learn specific "skills" such as persuasion, argument, interviewing, questioning, and negotiating, that are directly applicable and readily transferable to all aspects of the practice of law.

Clinical courses bring to legal education a new dimension in learning.⁸³ Traditional legal education occurs, by and large, in a logical, deliberate, rational, and abstract pattern of thinking and analyzing. Traditional law school courses involve two-dimensional situations focusing on oral discussions of printed book pages. Simulated clinic courses involve a third dimension, albeit not real. Fieldwork clinical experiences provide a 3-D real world experi-

81. See A. PINCUS, *CLINICAL EDUCATION FOR LAW STUDENTS*, CLEPR (1980).

82. For descriptions of teaching models employed in trial advocacy courses, see R. HAYDOCK & J. SONSTENG, *RESOURCE MATERIAL FOR THE TEACHING OF TRIAL ADVOCACY*, (NITA 1980).

83. For intricate analyses of clinical learning, see Cahn, *Clinical Legal Education from a Systems Perspective*, 29 CLEV. ST. L. REV. 451 (1980), and Cort & Sammons, *The Search for "Good Lawyering": A Concept and Model of Lawyering Competencies*, 29 CLEV. ST. L. REV. 397 (1980).

ence. No other pedagogical method affords students this opportunity to learn by personal involvement, action, discovery, and reflection.⁸⁴

The magic of clinical education is that it provides students with a relevant, enriching, exciting, challenging, and intellectual educational experience.⁸⁵ Students in clinical courses immerse themselves in learning to an extent and to a degree uncalled for and unavailable in other law school courses. The dynamics of lawyering come alive in a clinic course and reduce the chance of students becoming bored, apathetic, or indifferent.⁸⁶

A. Course Sequence

The Mitchell curriculum consists of several required courses essential for clinical preparation including Evidence, Civil Procedure, Trial Advocacy, and Professional Responsibility. Students must take Professional Responsibility before or concurrently with a clinic that involves client representation. Trial Advocacy is a prerequisite for advocacy clinics. Some skills courses are concurrent course requirements or prerequisites for fieldwork courses. For example, a Civil Practice course is a prerequisite to a civil clinic fieldwork course. Substantive law courses constitute concurrent or prerequisite requirements for specialized clinics. A student who takes the Family Law or Workers' Compensation Clinic must take the companion Family Law or Workers' Compensation classroom course. Prerequisites may be waived if a student demonstrates that requisite skills or experiences have been acquired in some other way; students who prior to or during law school worked in law-related situations may have acquired sufficient experience to permit a waiver.

The Mitchell faculty recognizes that some students learn better in one mode than another. Consequently, this curriculum sequence allows students to take some skills courses before taking a fieldwork course or permits them to take both clinics concurrently. The advantages of having students complete a prerequisite course before a clinic fieldwork experience are that:

84. See H. PACKER & T. EHRLICH, *NEW DIRECTIONS IN LEGAL EDUCATION* 41 (1972); Uelmen, *Providing Legal Services to the Addict: An Experimental Law School Clinical Program*, 6 CONTEM. DRUG 3 (1977).

85. See Leleiko, *Love, Professional Responsibility, The Rule of Law, and Clinical Legal Education*, 29 CLEV. ST. L. REV. 641, 653-56 (1980).

86. See Meltsner & Schrag, *Scenes from a Clinic*, 127 U. PA. L. REV. 1 (1978).

1. Students acquire the necessary information about the skills and the procedural and substantive law necessary to represent a client;
2. The client's best interests are better served by having a trained student attorney;
3. Students have more ability and confidence to be actively involved in the applied lawyering skills rather than merely observing;
4. A common prerequisite course eliminates the need to repeat such skills training in separate fieldwork courses; and
5. Students can elect to take the prerequisite courses without having to do the fieldwork.

The advantages of having students take a skills and fieldwork course concurrently are:

1. Students are able to immediately apply to a case what they have learned;
2. The clinician can teach the skills, supervise the fieldwork, and tailor the experiences to the students' needs; and
3. A concentrated course permits a more in-depth exposure to clinical learning.

The advantages of one mode constitute the disadvantages of the other sequence.⁸⁷ Initially, clinic courses at Mitchell were combined skills and fieldwork experiences. Several years ago the experiences were split to allow students to determine which mode they preferred and to permit them more flexibility in their scheduling. Some clinic fieldwork courses still include simulated skills training to the extent the general skills courses do not focus on specialized skills.

1. Clinic Registration Offerings

Several factors restrict the availability of clinic courses for Mitchell students. Administrative problems involving the number of clinics offered, the sequence of prerequisite courses, the registration system employed, and the limited number of semesters available for clinic offerings combine to preclude some students from selecting the clinic of their choice. Administrative responses have reduced the frequency of these problems.

87. For articles that explore these concerns, see Tyler & Catz, *The Contradictions of Clinical Legal Education*, 29 CLEV. ST. L. REV. 693 (1980), and Harbaugh, *Simulation and Gaming: A Teaching/Learning Strategy for Clinical Legal Education*, REPORT OF THE AALS-ABA COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION 191-222 (1980).

For the past several years the college has offered an average of fourteen fieldwork clinic courses for the fall semester, eighteen for the spring semester, and seven during the summer. These semester-long clinics range from two to four credits. Some are scheduled for set class times each week; most are flexibly offered to accommodate professors' and students' schedules. More than one section of prerequisite courses may be offered to alleviate course conflicts. Students register for all courses, including clinic courses, through a lottery system based on rotating numbers corresponding to student seniority. This process provides all students a fair opportunity to register for the clinics of their choice. Students are restricted regarding the number of clinic course credits they may take to prevent monopolization of limited clinic enrollment courses. Clinics are available to all students, except those on probation.

Other possible selection factors for clinic courses, including the student's class standing or prior law school-related experiences, have been rejected⁸⁸ as factors that may create an elitist clinic student enrollment or that may emphasize irrelevant or subjective qualifications. Clinical experiences should be available to all students. Grade point averages or class rank are irrelevant regarding interest or need for the clinic educational experience. In addition, many students who do poorly on exams perform very well in simulated or live clinic situations.

2. Course Credit

Traditionally, clinics at Mitchell and at other law schools have a reputation of requiring more work from students than non-clinical courses.⁸⁹ Fieldwork should reflect the educational goals of a clinic, allocated credit hours, and available student time. Limits on fieldwork hours prevent students from being overworked in relation to the credit hours.

Initially, some clinics required much more work than the students received credit for compared to other courses. The issue of how to determine the credit value of a clinic course was resolved by adopting a formula of two hours' preparation for every class hour plus final exam preparation time of ten hours. A two-credit clinic requires a student to complete one hundred fieldwork hours

88. See *Clinical Legal Education*, REPORT OF THE AALS-ABA COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION 16, 55-57 (1980).

89. See Lowry & Kennedy, *Clinical Law in the Area of Mental Health*, 1979 WIS. L. REV. 373.

(thirty class hours plus sixty preparation hours plus ten for the final exam). A four-credit clinic requires two hundred fieldwork hours. These hours are viewed as the minimum. Students are required to maintain time sheets. There are indications that the majority of students devote substantially more time than is required.

The formula attempts to correlate student effort with credits. No formula, however, completely resolves all the problems. Some traditional, elective courses that do not require attendance or much preparation will require substantially less work than others. The formula applies only to fieldwork clinics at Mitchell. It is difficult to provide all students in a particular clinic with a uniform experience. Too many factors affect the fieldwork experiences: case complexity, client preferences, opposition resistance, and court calendars all account for variances among cases. Student time and activities are monitored to avoid either overloading or under-using the clinic student, but the difficulty of equalizing fieldwork experiences remains.

Mitchell grants credits to students engaged in clinic courses offered by the law school but does not grant credit to students who have a job that appears to parallel some clinical experiences. Many students at Mitchell work in law related jobs but it is Mitchell's policy to prohibit awarding credits where the student receives remuneration. In those situations there is insufficient supervision, evaluation, in-depth reflection, and other pedagogical facets of clinical education. The college does not provide credit for situations that resemble learning-by-doing but do not parallel clinic learning methods.

B. Clinic Course Development

The creation, reformation, and evaluation of clinic courses has paralleled the development of other courses at Mitchell. The Curriculum Committee, composed of faculty and students, initiates and reviews course proposals, periodically evaluates all courses, and makes recommendations to the full faculty and administration. The full-time faculty then approve or disapprove such courses, including clinics.

1. Clinical Representation

The concerns and problems existing in a clinic program resemble those in practice. Mitchell students have represented approximately 1200 to 1600 clients each year for the past decade. Filing

arrangements, tickler systems, and office procedures need to be established and monitored to ensure that client information and records are properly maintained. Some files need to be transferred from student to student; contact must be maintained with clients; clients need to be informed of the status of their cases. These procedural concerns raise related questions: How do student attorneys receive their messages? Who contacts the students regarding emergencies? Where should the master file be maintained? Should a duplicate file be created for student use?

Mitchell has attempted to operate a professional law office that both protects clients and provides the students with an educational model that comports with professional responsibility standards.⁹⁰ The Law Clinic has its own stationery, cards for students, a separate phone number, and identifiable office and interview space within the school, all to provide an effective and efficient law office system. The experienced clerical staff consists of legal secretaries and student paralegals who monitor the system and provide instruction to the students. Manuals, files, a mail system, notices, and bulletin boards all provide necessary information to the students.

2. *Student Practice Rules*

The parameters of a clinic program depend upon the provisions of the practice rules permitting students to practice law. The current Minnesota Student Practice Rule includes two separate rules, one detailing the certification of a law student for employment purposes by a governmental agency or legal services office,⁹¹ and the other specifying certification procedures for law school clinical student attorneys.⁹² The Minnesota Supreme Court revised the student practice rule in 1982 to permit law students to "perform all functions that an attorney may perform in representing and appearing on behalf of a client."⁹³ This provision authorizes students involved in law school clinical programs to represent fee pay-

90. Not all clinic clients have been satisfied with their representation or the results obtained. Some years ago the law school and some faculty were parties to a malpractice action in which a plaintiff-client accused the clinic of "pussyfooting and pettifogging" instead of doing something constructive. The complaint was dismissed *sua sponte*. *Kelsey v. William Mitchell College of Law*, Civ. No. 3-76-372 (D. Minn. 1976).

91. *Student Practice Rules*, PROFESSIONAL RULES FOR ATTORNEYS AND JUDGES (1982).

92. *Id.*

93. *Id.*

ing clients under clinical faculty supervision and permits a law school to operate a fee income clinic.

Other student practice rules authorize students to appear in other forums. The Federal Student Practice Rule allows students to appear in federal district court.⁹⁴ Furthermore, the Eighth Circuit Court of Appeals permits students to appear.⁹⁵ The federal bankruptcy court specifically permits students to appear in bankruptcy court.⁹⁶ The Internal Revenue Service has authorized the appearance of students to represent taxpayers before IRS proceedings.⁹⁷

C. Clinic Course Components

The "live" clinic courses at Mitchell have several components. The primary component involves students in the supervised fieldwork representation of clients or in an actual case. Moreover, every fieldwork clinic has class components that vary in content. Some classes include a presentation and explanation of recent developments in the substantive cases of the clinic; others focus on procedural matters common to the clinic and to the cases; some classes include analysis of common problems and issues students will face in the clinic; some classes have students prepare and rehearse clinic activities; other classes involve simulated exercises; most classes involve strategy discussions for prospective actions and evaluation of past actions, including professional responsibility issues.

1. Student Supervision

Tutorial conferences between the supervisor and the individual student attorney constitute a major clinic course component.⁹⁸ The extent of actual supervision at Mitchell varies from clinic to clinic and student to student. What a supervisory attorney may permit one student to do, he or she may not entrust to another

94. United States District Court, District of Minnesota, Rule 1(H), 52 MINN. STAT. ANN. (West Supp. 1983).

95. United States Court of Appeals, Eighth Circuit, Rule 23(e), 52 MINN. STAT. ANN. (West Supp. 1983).

96. United States District Court, Rule 1(H)(l), 52 MINN. STAT. ANN. (West Supp. 1983).

97. *Id.*

98. See Bamlinger, *The Clinical Method of Legal Instruction*, 30 J. LEGAL EDUC. 67 (1979); Condlin, *Socrates' New Clothes: Substituting Persuasion for Learning in Clinical Practice Instruction*, 40 MD. L. REV. 223, 223-26 (1981).

student who does not have the necessary confidence, preparation, abilities, and knowledge. Students must make periodic contacts with a supervisory attorney by way of personal conferences, telephone discussions, case memos, time sheets, or journals. Supervisory attorneys tutor, advise, critique, evaluate, and supervise the how, when, why, and what students do. Clinic supervisors assist each student, as needed, with case analysis and preparation. A student's work and performances is reviewed regularly. When feasible, supervisory attorneys accompany students to activities and appearances, including those appearances where the effects of a student's action may be irreversible. The supervisors also stand ready to substitute for the student if the client's interests require such intervention. Finally, supervisory attorneys discuss the student's performance in individual conferences which permit the students to learn and grow by reflecting on what has happened, what they did, what might occur, and what they should do.

The client's interests in a clinic case include the consent to being represented by a student, involvement in appropriate decisions, ready access to the supervisory attorney, and the best possible legal representation. These interests will dictate who should do what. The supervisor might need to be present in an interview; in a trial it may be appropriate to have a student and supervisor each conduct part. These decisions are not easy.⁹⁹ What might be a good educational experience for a student may expose a client to less than effective representation. In some situations the supervisory attorney must directly handle a matter rather than leave it to a student. Direct supervisory action is especially important where a supervisory attorney cannot readily supplement, correct, or modify a less than satisfactory performance by a student.

Inevitably, problems between supervisory attorneys and students occur. Students will fail to maintain their time sheets, will not contact the supervisor regularly, or will avoid fieldwork obligations. Supervisory attorneys will sometimes neglect to sufficiently monitor the activities or lack of activities of a student. Fortunately, the Mitchell experience over the years has been that these problems occur infrequently. Rarely will a student and a supervisor be unable to work together because of personal or other reasons. The optimal attitude for both students and supervisors seems

99. For instance, for a discussion of constitutional concerns, see Hardaway, *Student Representation of Indigent Defendants and the Sixth Amendment: On A Collision Course?*, 29 CLEV. ST. L. REV. 499 (1980).

to be an enthusiasm to learn, a genuine interest in helping others, and a commitment to do the best possible lawyering.¹⁰⁰

The relationship between a student and faculty member may have a substantial impact on the student's learning experience.¹⁰¹ The role model provided by the supervisor will be observed often and in different settings by the student. The rapport established between a student and a clinician will usually be unlike previous relationships the student may have had with non-clinic faculty. These factors coupled with the critique and evaluation provided by the supervisor add to students' perspective.

2. *Clinic Materials*

Materials are another essential component of a clinic course and may include books,¹⁰² articles, manuals, or unpublished editions that explain or analyze the lawyering skills or process, or videotapes that demonstrate skills or exercises in which students rehearse for a specific fieldwork presentation. Some materials detail the procedures, schedules, forms, rules, and guidelines that regulate the operation of a fieldwork clinic. The major clinics, involving twenty to thirty students a semester, require detailed manuals. Some materials provide a source of questions and ideas that can be developed in student/supervisor conferences. For example, students in several clinics will read materials on the various roles of lawyers, compare those readings to their own clinic perceptions, and discuss their experiences in conferences.

3. *Innovative Demonstration Videotapes and Manuals*

The Mitchell clinical faculty has been involved in the creation and production of videotapes, audiotapes, and manuals demonstrating and analyzing advocacy, trials, and dispute resolutions. The videotapes were designed to better prepare students for clinical experiences, particularly for trial and administrative hearings. Students had difficulty visualizing the skills they were to perform and needed a demonstration model to view and analyze. "Live" demonstrations performed by faculty or practitioners pro-

100. For detailed reports on a clinic operations, including experiences of clinicians and students, see BLOOM, *THE PROSECUTOR CLINICS AND THE PUBLIC DEFENDER CLINICS, THE NEW LAW SCHOOL SCENE* (CLEPR 1974); GLEN, *JAILHOUSE LAW STUDENTS*, NATIONAL COUNCIL ON CRIME AND DELINQUENCY (1973).

101. See Redlich, *Professional Responsibility of Law Teachers*, 29 CLEV. ST. L. REV. 623 (1980).

102. See, e.g., G. BELLOW & B. MOULTON, *THE LAWYERING PROCESS* (1978).

vided some preparatory assistance, but the disadvantages outweighed the advantages. Live performances were difficult to coordinate and repeat; some demonstrations were inadequate because live performances could not be readily interrupted and analyzed; other demonstrations were difficult to honestly critique while the performing lawyer remained in the class. Videotaped demonstrations created a better learning atmosphere for students. The National Institute for Trial Advocacy retained Law Clinic faculty to produce, direct, and write videotapes and manuals.¹⁰³

Videotapes were created in all areas of trial practice from deposition practice to closing argument, including direct and cross-examinations. The tapes were created in color television studios with the technical assistance of a professional staff. The demonstration tapes included several types: some used a complete, continuous performance of a skill; others used short vignettes depicting various facets of a skill; still others used comparative demonstrations involving different lawyers performing the same skill. All included the major strategies, tactics, and techniques common to an effective demonstration of each skill based on a fact situation that would allow an experienced attorney to demonstrate such approaches.

Manuals to accompany the videotapes contained verbatim transcripts of the demonstrations and detailed comments that analyzed the tactics, techniques, strategies, alternative approaches, rules, ethics, and procedures involved. The manuals were published by NITA for use by law professors and CLE instructors in litigation courses. In addition, student editions of the manuals were prepared and included the transcripts and an extensive series of questions designed to help the students review and analyze the demonstrations prior to class. Videotapes and manuals were produced in the areas of trial advocacy, jury selection, depositions, appellate advocacy, and negotiations.¹⁰⁴ The videotapes and manuals were designed to be used in various size classes and employed by individual students as self-learning devices. The video-

103. Professors John O. Sonsteng and Roger S. Haydock have created 28 demonstration videotapes and 28 lecture videotapes for NITA.

104. The videotapes appear in the National Institute for Trial Advocacy (NITA) catalogue. The manuals include: R. HAYDOCK & J. SONSTENG, *NEGOTIATIONS* (NITA 1983); R. HAYDOCK, C. KUNZ & J. SONSTENG, *APPELLATE ADVOCACY* (NITA 1982); J. SONSTENG & R. HAYDOCK, *JURY SELECTION* (NITA 1981); R. HAYDOCK & J. SONSTENG, *DEPOSITION MANUAL FOR DEMONSTRATION VIDEOTAPES* (NITA 1980); J. SONSTENG & R. HAYDOCK, *TRIAL DEMONSTRATION VIDEOTAPE MANUAL* (NITA 1979).

tapes and manuals have been incorporated in courses at Mitchell and provide students with a better understanding of the theories and concepts of the skills demonstrated.

4. *Clinic Publications*

In addition, Mitchell clinical faculty have written books, cases and problems, and articles in the areas of their expertise.¹⁰⁵ These books were tailored to provide the theories, concepts, practice, and procedures involved in various areas of the law to prepare students for clinical experiences. Cases and problems providing materials for litigation exercises differ from currently available materials.¹⁰⁶ The cases and problems focus on basic skills commonly needed in court trials and administrative hearings, include concise legal memoranda that explain the applicable law, and provide detailed fact situations that require students to make strategic and tactical decisions. At the onset, most of these materials were created for use in one of the Mitchell clinic courses and later were refined into publishable works. Unpublished materials and manuals currently used in the clinic courses include works on client interviewing and counseling, administrative proceedings, civil litigation, and criminal practice. The college expects scholarly production and the faculty considers such publications in its determination of tenure status for individual faculty members.

5. *Grading in Fieldwork Courses*

Most fieldwork courses are graded on the same basis as other courses,¹⁰⁷ although some are graded pass/fail. Scaled grading is preferable in the clinics, not because it motivates students (the student/client and student/instructor relationship may be motivation enough), but because it provides students with the benefit of their efforts. Clinic grades tend to be higher than grades for traditional courses because students usually want to learn, often make extraordinary efforts on behalf of a client, and are encouraged by a

105. See, e.g., R. HAYDOCK & D. HERR, *DISCOVERY PRACTICE* (1982); R. HAYDOCK & D. HERR, *DISCOVERY: THEORY, PRACTICE, PROBLEMS* (1983); R. FRASE, P. HAUGEN, & M. COSTELLO, *MINNESOTA MISDEMEANORS AND MOVING TRAFFIC VIOLATIONS* (1982).

106. See R. HAYDOCK & D. HERR, *DISCOVERY: THEORY, PRACTICE, AND PROBLEMS* (1983); R. HAYDOCK & J. SONSTENG, *TRIAL EXERCISES* (NITA 1983). Books in manuscript form include R. HAYDOCK, *NEGOTIATION PRACTICE* (1984), and J. SONSTENG, R. HAYDOCK & J. BOYD, *TRIALBOOK* (1984).

107. See generally Carr, *Grading Clinic Students*, 26 J. LEGAL EDUC. 223 (1974); A.A.L.S. Clinical Legal Education Panel, *Evaluation and Assessment of Student Performance in a Clinical Setting*, 29 CLEV. ST. L. REV. 603 (1980).

supervisor. The factors that determine the grade include both objective and subjective components. Some objective factors are punctuality, availability, file maintenance, client contacts, supervisor contacts, and related events. Simulated courses provide additional objective factors based on a student's performance of particular skills. Other factors involve evaluations of the student's legal analysis, judgment, and ability to analyze, plan, and think. Subjective factors including interest, enthusiasm, and professionalism may be involved in determining a grade. The subjective factors are more difficult to gauge, but significantly affect a student's performance and must be included as grading criteria in most clinics.

6. *Grading in Skills Courses*

Skills courses are graded based on the grading system used for other law school courses.¹⁰⁸ Experiments with pass/fail and similar no-grade evaluations have occurred, but a number grade is a significant motivating factor for many students. This is especially true in the skills courses with large enrollments. Exercises, written assignments, and exams constitute the sources for the grades. Uniform grading sheets are employed to evaluate the student performances and exercises. These forms consist of four to eight factors relating to specific aspects of the assignment. The forms and written assignments are placed in individual student files in the Law Clinic where the student may review them at any time during the semester. The course professor reviews all the files and written comments at the end of the semester. The final grading component is an exam in which students observe a videotaped performance of skills the students performed during the course. The students then compose a written critique of that performance.

Uniformity in grading has been a problem. Some skills courses involve six different instructors reviewing small group or videotaped exercises; other courses involve twenty-four instructors. Naturally, instructors have different standards and subjective expectations regarding student performances. Steps have been taken to reduce these differences to obtain more uniform grading results. Instructors meet as a group to observe videotapes of previous student performances. Each instructor grades the performances using the grading forms. The grades are tabulated and the results announced; the group discusses the factors that influenced

108. See generally Levine, *Toward Descriptive Grading*, 44 S. CAL. L. REV. 696 (1971).

the various grades and reaches a consensus on consistent grading standards.

The grading results obtained during these conferences have been quite consistent. The conferences permit the instructors to adjust their grading standards. Critiques of various instructors are randomly reviewed by the clinic professor. Charts are maintained during the semester compiling the grades of all the instructors. The charts are reviewed to ascertain discrepancies. Lastly, students provide input by submitting written evaluations of the instructors and written explanations if they disagree with a grade received. Fewer students have availed themselves of this opportunity during recent years because of attempts to reduce grading discrepancies.

Complete uniformity is an ideal that may never be achieved because of the inherent subjective factors involved in grading. The attempts to achieve a high level of consistency equals or exceeds efforts to achieve similar consistency among professors who grade exams for other courses.

D. Clinic Faculty

Full-time and part-time professors constitute the faculty at Mitchell. Members of the bench and bar with law professors form an integrated and well-balanced faculty. Chief Justice Warren Burger recognized that this composition "manifests the sound pattern of having the teaching functions shared by all three branches of our profession—a significant development now, once again coming into vogue."¹⁰⁹ The faculty has among its teachers law professors with substantial practice experience, practitioners with significant teaching experience, and judges with both practice and teaching experience. This combination permits the college to offer quality clinical courses to more students. Over the years we have refined both the fieldwork clinics and the simulated course teaching roles of all our faculty.¹¹⁰ The clinical faculty has evolved into several levels of fieldwork teaching involvement.

1. Full-Time Faculty

Some full-time faculty spend all or most of their time directly involved in clinic courses. Their involvement may consist of

109. Quoted in 1982-83 WILLIAM MITCHELL COLLEGE OF LAW BULLETIN 9.

110. For another clinical description, see Wizner & Curtis, "Here's What We Do": *Some Notes About Clinical Legal Education*, 29 CLEV. ST. L. REV. 673 (1980).

fieldwork supervision of students, supervision of adjunct clinicians, class participation, or simulated course teaching. That a "core" of full-time faculty be maintained to develop in the clinical teaching method is essential.¹¹¹ The Mitchell clinical program has shifted from extensive direct supervision of students by full-time faculty to direct, significant supervision by adjunct clinicians. In addition to teaching students, full-time clinical faculty recruit, train, monitor, and evaluate adjunct supervisory faculty. This dual role permits the use of more clinical faculty, provides more clinical opportunities, allows for more students, and reduces the heavy teaching load for full-time faculty that results from semester after semester of direct supervision of students. Usually five tenured or tenure-track faculty teach clinic courses or become involved in clinic administration during an academic year.¹¹² The qualifications considered for appointment to and retention on the Mitchell clinic faculty are similar to the guidelines appearing in the Report of the AALS/ABA Committee on Clinical Legal Education.¹¹³

Some full-time faculty teach one clinic, supervise students or adjuncts, or assist with conferences or skills courses. The college has attempted to integrate many full-time faculty into the clinic. Historically, the college has recruited faculty with experience in practice. The practical experience qualifies faculty members to teach in the clinical program and also creates a faculty that understands and appreciates the significant benefit clinic courses bring to the law school. The integration of clinical and traditional faculty has resulted in other benefits.¹¹⁴ First, no caste system, measuring status on the courses a faculty member teaches, has developed. Second, traditional courses have been enriched because faculty relate their clinical experience to those courses. Third, more clinic courses can be offered to more students. Presently, eight tenured faculty members teach or supervise clinic fieldwork courses.¹¹⁵

111. For further analyses, see Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as a Methodology*, in CLINICAL EDUCATION FOR THE LAW STUDENT 399 (1973).

112. These professors have included Roger Haydock, John Sonsteng, Phebe Haugen, William Crowder, Al Hester, Bernard Becker, and Rosalie Wahl. Faculty who will be teaching clinical courses include Professors Peter Erlinder and Eric Janus.

113. GUIDELINES FOR CLINICAL LEGAL EDUCATION, REPORT OF THE AALS-ABA COMMITTEE (1980).

114. See Munger, *Clinical Legal Education: The Case Against Separatism*, 29 CLEV. ST. L. REV. 715 (1980).

115. These include Professors Jennifer Brooks, Melvin Goldberg, Andrew Haines, Robert Helland, C. Paul Jones, Paul Marino, Curtis Stine, and Christine Ver Ploeg.

2. *Adjunct Faculty*

Adjunct clinical professors' primary responsibility is to teach clinics that include both fieldwork supervision and classroom responsibilities. These clinics focus on a specialized subject or skills area. Some are team taught by two adjuncts sharing the responsibilities. The team-taught clinics provide both educational and economic benefits to the college. A clinic course can be offered in a specialized area even if no full-time faculty member has the expertise or interest in supervising students in that area. Several adjuncts have reduced their practice or other obligations to devote substantial time to the clinical program. The adjuncts are selected based not only upon their practical experience and reputation in the legal community but also upon their teaching capabilities and the role models they will provide to Mitchell students. Many new adjuncts have had some clinical training in their law school and this familiarity helps them understand their role. There are currently twelve adjuncts, who work in private practice or in government, legal services, or public defender offices, who teach each semester.¹¹⁶

Another level of clinical faculty includes clinical supervisors. These are attorneys whose primary employment responsibility is to an outside employer but who supervise one or more students in a clinic. Either the full-time faculty member or adjunct clinical professor who teaches or administers the clinic, will select, train, and supervise the supervisors. These clinical supervisors are selected based on their experience and interest in supervising.¹¹⁷

3. *Adjunct Clinician Advantages and Disadvantages*

The average student/faculty ratio for fieldwork clinics is seven to one. The degree of success over the years providing students with optimal clinic educational experiences with the different faculty members has varied. The full-time faculty and adjunct clinical professors involved in direct fieldwork supervision have

116. Adjuncts who have taught for several years include: Earl Beddow, Elizabeth Davies, William Falvey, Larry Hammerling, David Herr, William Kampf, Ross Kramer, Peter Lindberg, Thomas Longfellow, Ted Rix, Rebecca Rom, and Mary Steenson. Other adjuncts include Kevin Snell and Susan Lentz.

117. Supervising instructors who have taught for several years include: Martin Costello, Cara Lee Neville, Ronald Powell, Steve Simon, and Sigurd Ueland. The AALS/ABA Guidelines for Clinical Legal Education designate these instructors as "cooperating attorneys."

and continue to provide the best learning experiences. They understand their roles as both teachers and attorneys.

There are inherent difficulties with the use of part-time clinical instructors. These lawyers or judges properly view their primary obligation is to their clients or cases and may spend less time supervising students. There may also be conflicts between the service obligations owed a client and the optimal learning experience for that student. It may be more efficient for an attorney to resolve a problem rather than involve the student in the process.

There may also be difficulties with any clinical supervisor, full time or part time. Some may be poor teachers; some may lack the patience and understanding to allow students to learn; others may perceive that clinical education is just having the student observe situations, others may use students as law clerks and not view them as attorneys; still others may gradually lose their teaching enthusiasm as their work load grows. Mitchell faculty have experienced all these and other problems. The college continues to retain a substantial number of clinical adjuncts as instructors because their experience, specialties, diversity, commitment, effort, enthusiasm, and dedication far outweigh periodic problems.

The compensation the college pays the adjuncts affects the degree of control that can be exercised. Unpaid instructors who have significant supervisory responsibilities usually do not perform as well as paid adjuncts. Limited financial resources, however, prohibit Mitchell from compensating adjuncts at a level equivalent to what they could earn in practice or as a consultant. Some governmental lawyers and judges are prohibited from receiving compensation for their services. The substantial expenditures of the college to compensate adjuncts demonstrate the integral role that adjuncts play as members of a law school faculty.

Adjunct clinicians are vital to the Mitchell clinical program. The Twin Cities, with its large population of lawyers and judges, affords an excellent source of clinicians. Mitchell students have and will continue to learn much from lawyers and judges who participate as fieldwork clinical supervisors.

4. Supervision of Clinical Adjuncts

Mitchell has attempted to create a clinical system that highlights the advantages that adjuncts contribute as clinical supervi-

sors and minimizes any disadvantages.¹¹⁸ Clinical faculty has the overall responsibility to develop and direct the clinic courses. Full-time faculty members are responsible for supervising adjunct clinicians. Periodic conferences, meetings, telephone conversations, memos, and other contacts between the adjuncts and full-time faculty provide the adjuncts supervision and assistance. These contacts include discussions of clinic teaching, the goals of a particular clinic, and the college's supervisory expectations. Faculty members also visit fieldwork situations and clinic classes to evaluate and advise adjuncts. The clinic teacher or other clinic faculty reviews the syllabus, assignments, manuals, schedules, and materials for each clinic to ensure completeness and quality. Adjuncts review their own clinical experiences and provide information by way of self-study clinic questionnaires. Student evaluations afford an additional source of information about the experiences with adjuncts in the clinic course.

Other components contribute to the adjunct monitoring system. The college carries legal malpractice insurance for all activities by adjuncts and full-time faculty. The Associate Dean for Academic Affairs and faculty committees including the Tenure, Curriculum, and Development Committees assist with the recruitment, evaluation, and retention of adjuncts.

5. *Adjunct Instructors*

Adjuncts also teach in simulated courses.¹¹⁹ Many clinical instructors are retained to critique students in small groups and videotaped exercises. Students in Trial Advocacy, Civil Practice, and Criminal Tactics courses perform exercises in groups of four to twelve students and in individual or two-person exercises. The instructors are provided with a prepared course syllabus, assignments, materials, problems, schedules, exercises, and grading forms. They then attend the small group or individual exercise, critique the student or review the videotape, and evaluate the student's written preparation. The exercises include interviews, negotiations, depositions, motion hearings, direct examinations, cross-examinations, oral arguments, and full trials.

118. For a description of necessary clinical supervision, see Krieling, *Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience Through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284 (1981).

119. For examples of adjunct teaching roles, see R. HAYDOCK & J. SONSTENG, *RESOURCE MANUAL FOR THE TEACHING OF TRIAL ADVOCACY* 27-38 (NITA 1982).

Adjunct instructors are selected for a course based upon their practical experience and their teaching abilities. Many adjuncts have experience as trainers or trainees in a National Institute for Trial Advocacy or similar programs. Instructors either apply for a position or are recruited. There are more qualified lawyers and judges than available positions. Some of the present instructors have been with the program for more than five years.¹²⁰

6. *Training and Supervision*

Each semester adjuncts attend training programs to learn or refresh their knowledge about their respective course content, methods, grading forms, and critique approaches. These formal training programs consist of explanations of the course and exercises that involve the adjuncts. A grading exercise has each instructor grade a videotaped student performance followed by a discussion of grading standards. A critique exercise involves the adjuncts in critiquing a student performance and then critiquing the critique.¹²¹ The training programs mimic the clinic method: adjuncts learn by doing, by analyzing, and by being critiqued. The sessions are highlighted by frank, lively discussions and critiques, resulting in more uniform application of grading standards and enriched student critiques.

The extent of adjunct involvement in a course varies. Some instructors spend three or four hours in class every other week during a semester. Others only spend ten hours spaced over the semester. Adjunct involvement is monitored to avoid overusing an instructor and premature disinterest. Scheduling is dictated by convenience for both adjuncts and students. Seventy-five instructors currently teach in one or more of the five simulated courses offered each semester. Instructors are rotated to allow them to take a semester or year off before returning. Every instructor is paid for teaching.

The college's simulated learning experiences begin in the student's first year of law school. The legal research and writing course offered at Mitchell also employs instructors to teach the first year students. Each instructor is responsible for a group of four-

120. Other experienced adjuncts include: Ann Alton, Roland Amundson, Sarah Arndt, Carolyn Bates, Kevin Burke, Jerome Ciresi, Richard Dolezal, Stephen Doyle, Richard Enga, Michael Fetsch, Robert Herr, Doris Huspeni, William Kennedy, Dean Larsen, David Larson, Keith Loveland, Cornell Moore, Peter Pustorino, Harold Schultz, George Serdar, and Gordon Shumaker.

121. This part of the training program resembles the Teacher Training Program offered by the NITA at Hastings and Harvard.

teen students and teaches small group classes, grades student drafts, attends individual student conferences, and critiques the students performing motion hearings and appellate arguments.

The selection, training, monitoring, and supervision systems for adjuncts have evolved over the years to ensure that Mitchell students receive quality clinical legal education. During the early years of the clinical program adjuncts were provided with less guidance and supervision. That an effective monitoring system is essential to the effective use of clinical adjuncts soon became apparent. Unsupervised clinic fieldwork extern programs and poorly administered simulated skills courses lead to inadequate educational experiences for students.

E. Clinic Staff

The Law Clinic staff plays a vital role in the operations of the clinical program. Administration, scheduling, case files, client contacts, telephone messages, card indexes, word processing, typing, copying, filing, and other clerical needs are centralized through the offices of the Law Clinic. Clinical secretaries, student directors, and staff from other departments provide these services.

The Law Clinic has had one administrative assistant since its inception.¹²² This continuity has led to an efficient, stable operation. Currently another full-time secretary and several part-time secretaries constitute the clinic clerical staff.¹²³ These secretaries do all that is necessary to operate a combination law office/law school clinic office from typing to answering telephone inquiries, to preparing schedules, to performing a myriad of essential tasks. Word processing equipment is now an integral part of the Law Clinic operations and is one reason the clinic staff is relatively small in number. Another reason is the commitment and dedication of the staff. An open, egalitarian, and professional atmosphere exists in the clinic with faculty and staff working, getting frustrated, and laughing together. The clinic staff serves important teaching functions. Their high standards of excellence, patience with the students, understanding of the faculty, and concern for clients provide students with support and assistance. Furthermore, the staff teaches students directly by answering hundreds of questions about legal procedures, offering practical tips, and editing draft documents.

122. Alberta Dowlin.

123. Stephanie Anderson and Annette Friedley.

1. Student Assistance

Student directors and assistants also constitute part of the clinic staff. Both perform vital services. They continually bring fresh insights, new ideas, and enthusiasm to the Law Clinic.

A student may become a student director after completing a clinic course. Over the years, the directors' role has not changed significantly. They continue to assist the supervisory attorneys, monitor student files and cases, schedule fieldwork activities, maintain regular clinic office hours, and perform related functions. The student directors may receive credit, a tuition rebate or both for their work during the semester. To receive two credits they must work 100 hours. To receive a tuition rebate they must commit themselves to work a number of hours equivalent to the value of the rebate. The credit they receive reflects the educational nature of their work during a semester; the money they receive reflects the more ministerial and repetitive work.

Student assistants act as researchers for the full-time clinical faculty and also assist with administrative, grading, and scheduling matters. They contribute primarily to the development of materials created by the clinic faculty but the nature of the clinic work requires them to help with other clinic activities. They are paid an hourly wage.

2. College Departments

Other departments of the college provide essential services to the Law Clinic. The administrative staff assists with scheduling, operates registration, and resolves student concerns; the Audio-Visual department operates the equipment for the approximate 1,050 hours of videotaped simulated exercises each year; the Communications Center produces copies of all clinic paperwork and materials; the library provides books and needed library services; the word processing department assists with the production of briefs, articles, and books; accounting monitors the budget and issues checks. Over the years some of the work of the Law Clinic staff has been shifted to other departments in the college. This redistribution of ministerial functions is another reason the clinic staff has remained relatively small in comparison to the number of faculty and students served.

3. Legal Services

Several Mitchell clinical courses are connected with legal serv-

ices in St. Paul and Minneapolis. One of the most popular and successful clinical courses is the Civil Litigation Clinic, formerly the Civil Practice Clinic, operated in offices rented through Legal Assistance of Ramsey County. The Legal Aid Society of Minneapolis also contributed to several clinical courses. During several semesters, students in the civil clinics represented Legal Aid clients in Minneapolis.

The relationship between the Law Clinic and legal services benefits all who participate. Indigent clients receive legal representation otherwise unavailable. Legal services provides a service to its clients and to the public.¹²⁴ The college partially fulfills its responsibility to the community. Law students receive an excellent educational experience involving pro bono efforts.

F. Clinic Funding

The primary source of funding for the clinical program has always been student tuition. The policy to fund the clinic from tuition was established in 1973 and its rationale was simple: If clinical education was an essential part of legal education, then it ought to be funded from the same source that funds other essential components of the educational system.¹²⁵ This policy remains in force today, but because of the expense of clinical education, Mitchell has obtained outside funding to reduce reliance on tuition income.¹²⁶ Initial attempts, in 1974 and 1975, to obtain outside funding were unsuccessful. The Council on Legal Education and Professional Responsibility (CLEPR) was a major source of grants for law school clinical programs during the 1970's. CLEPR rejected proposals submitted by the college for clinical courses in the juvenile law and mental commitment areas.

A primary source for clinic funds is the State Public Defender's Office. The former Legal Assistance to Minnesota Prisoners clinic, now the Legal Services to Minnesota Prisoners program, provides a full-time supervisory attorney and a source of clients for Mitchell

124. Legal services attorneys who have supervised Mitchell students include: Richard Croft, Laurie Davidson, Martha Eaves, Rick Enga, Charles Green, Eric Janus, Steve Parsons, and Tim Thompson. Legal Services Executive Directors who have supported clinical education include Bruce Beneke and John Brauch with Legal Assistance of Ramsey County and Jerry Lane with Legal Aid Society in Minneapolis.

125. See generally ABA TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS (1979).

126. For a discussion of the costs of clinical education and sources of funding, see *Funding of Clinical Legal Education*, AALS PROCEEDINGS, VAND. U.L.S. (Mar. 3-4, 1978).

students. Staff attorneys with the Public Defender supervise students in the Criminal Appeals Clinic. These supervisors are officed in the law school with the Defender's Office.

1. Federal Grants

Another primary source of outside funding is the federal government. In 1978, the federal government through the Law School Clinical Program with the Department of Health, Education and Welfare, made money available to initiate new clinical programs.¹²⁷ The college received a generous grant to fund two clinical professors to teach a Juvenile Law Clinic and the Civil Litigation Clinic. After the grant was exhausted, the college decided to continue the courses and retain the professors by absorbing the cost in the law school budget. Consequently, the goal of the federal funding program was met, which was to provide seed money to initiate clinical programs that the school subsequently fund the program from other sources. In 1980, the college received another federal grant from the Department of Education to establish an Elderly Law Clinic.¹²⁸ Mitchell retained a full-time faculty member to teach an elderly law clinic and course.

In 1982, the college applied for funding again but with a unique approach. The application submitted sought funding for an income producing law school clinical program. The plan was to create a general civil clinic providing services to low-income clients at reduced fees. The program would provide services to moderate-income individuals unable to afford a private attorney. Initial funding would offset the first year expenses for the program until the fees collected maintained the program in subsequent years. The faculty was divided on whether it was appropriate to seek such a grant. The Department of Education declined to fund the program but thought the idea was worthwhile and provided the college with a small grant to further develop plans for such a clinic.

2. Funding Benefits and Problems

The federal monies and the resulting clinical programs provided significant benefits to the college along with some difficulties. The new clinical courses provided new sources of clients and important educational opportunities for students. The new full-time faculty

127. Such grants are authorized under 20 U.S.C. §§ 1134n-1134p (1983).

128. *Id.*

members expanded the college faculty, adding diversity and depth. The money provided helped defray the cost of clinical education and allowed the college to use some tuition income to fund other college activities. These benefits were in part offset by problems inherent in the acceptance of outside funding. Were the college's indirect costs exceeding the grant monies? Where would funds come from to continue the program? Was the course a clinic the college would offer if outside funding were not available? What tenure status should the faculty person receive who is being supported by "soft" money? Some of the questions were never fully answered.

3. Additional Sources

Indirect contributions further account for the college's ability to offer an extensive clinical program. The college relies on adjunct faculty to assist full-time faculty with the administration and supervision of many of the clinics. The college compensates adjuncts with a salary, recognizing that the money provided does not fully compensate them for their time. The adjuncts' commitment and efforts make it possible for the college to provide clinical education to many students.

Some law firms and attorneys provide in-kind contributions to the clinical program. The college and Legal Assistance of Ramsey County (LARC) each provide a full-time supervisory attorney for the Civil Litigation Clinic. LARC provides its clients with quality legal representation and the college obtains the services of an experienced supervisory attorney. Other law firms, government firms, and practitioners contribute in a similar manner.

Clinical alumni provide another funding resource. Some alumni who had especially good learning experiences in a clinic course have begun organizational efforts to raise funds for specific Law Clinic needs. This effort coupled with the work of the college's Development Department may yield new sources of income for the college and the Law Clinic.

4. State Funding

Additional sources of income may become available in the 1980's to help support clinical education. The present Minnesota Student Practice Rule allows law students to represent any client, indigent or fee-paying, in a supervised law school clinical pro-

gram.¹²⁹ The rule permits the college to explore creating a law clinic that will receive fees for client representation provided by supervised law students. Current clinical courses allow students to represent indigent clients to help solve housing, consumer, income, and employment problems. Clinics that serve middle and upper income clients would afford students new learning opportunities that parallel private practice and provide better training.

In 1982, state legislation provided funding for the representation of indigent clients.¹³⁰ Eighty-five percent of these monies will go to established legal services offices. The remaining fifteen percent will be distributed among other client service programs, which may include law school clinical programs. The Minnesota Supreme Court may make available another source of funds. It is considering the distribution of interest earned on attorney escrow accounts to programs designed to provide legal services or education.¹³¹ An Advisory Board composed of members of the bar, bench, community, faculty, and students may be formed to advise the Law Clinic on how to proceed with expansion of the income-producing potential of the Law Clinic.

5. *Funding Philosophy*

Clinical education must offer a rich learning experience while providing service to clients. There needs to be a balance between the educational and service components of a clinic. If the emphasis is on service, the educational experience might suffer. Funding sources that require primarily the representation of clients will create inevitable tension.¹³² Conflicts will arise when the number of clients has to be limited to permit supervisory attorneys adequate time to tutor and evaluate student attorneys, when students have limited time available because of other educational or employment commitments, when students are not available because of exams or holiday or summer breaks. Mitchell has recognized these potential problems and has selected funding sources that emphasize the educational nature of the clinical experience.

129. *Student Practice Rules*, PROFESSIONAL RULES FOR ATTORNEYS AND JUDGES (1982).

130. Act of Mar. 19, 1982, ch. 489, 1982 Minn. Laws 509 (codified at MINN. STAT. §§ 375.167, 480.24-.244 (Supp. 1983)).

131. *Committee Report on Interest on Lawyers' Trust Accounts*, BENCH & B. INTERIM, May 1982, at 13-16.

132. See, e.g., Pincus, *The Role of the Law School in Improving the Delivery of Legal Services*, V CLEPR NEWSLETTERS NO. 5 (Jan. 1973).

IV. CLINICAL EVOLUTION

The William Mitchell Law Clinic has evolved over ten years into an effective and extensive clinical program gaining national recognition. In 1981, the American College of Trial Lawyers awarded the Law Clinic its prestigious Emil Gumpert Award for excellence in the teaching of trial advocacy. In 1982, a team of clinic students placed second in the finals of the American Trial Lawyers' Association trial advocacy competition. The National Institute for Trial Advocacy and national publishers, such as West Publishing, John Wiley, and Little, Brown, have selected Mitchell clinic faculty as trainers, consultants, and authors.¹³³ The Chief Justice of the United States, a Mitchell graduate, has recognized his alma mater as being one of several law schools strongly committed to clinical education.

A. The Future

The clinical program will need to continually evolve to improve the quality of clinical education and maintain its national status. The clinic curriculum will move in new directions as Mitchell redefines its goals and objectives. Much has been accomplished over the past decade; much more remains to be attempted, assessed, and accomplished. The balance of this Article will explore several new ideas that have been developed or considered at Mitchell.

1. The Legal Practicum

Mitchell has created an innovative law school course that represents a revolutionary approach to legal education. The course, entitled the Legal Practicum, attempts to provide senior law students with a challenging, enriching, and exciting educational experience. The primary objectives of the course include:

1. Integrate substantive and procedural law with skills learning;
2. Combine client and problem-based seminars with uniform simulated and fieldwork experience;
3. Provide individual supervision and tutoring by faculty;
4. Replicate the practice of law in the law school;
5. Create a model law office and practice;
6. Instill professional responsibility;

133. See *supra* notes 104-06 and accompanying text.

7. Thoroughly prepare students for professional life after school;
8. Merge traditional law school learning processes with innovative approaches; and
9. Establish a relationship between students and faculty as partners practicing law together.

The Legal Practicum is a ten-credit, one-semester course offered to students grouped into three-person law firms practicing law with faculty. A mix of simulated and actual cases, problems, and clients is provided each law firm as the semester progresses. The students handle a variety of integrated substantive and procedural law problems in the areas of corporate law, personal income tax, business tax, wills, real estate, estate planning, commercial law, criminal law and procedure, civil procedure, constitutional law, civil rights, torts, property, contract, family law, employment law, poverty law, and professional responsibility. Each student firm will be actively involved in proceedings including a court trial, an administrative hearing, a contract arbitration, a federal court motion, legislative conferences, a supreme court appeal, litigation depositions, and a jury trial. All the student attorneys will interview clients, investigate facts, compose memos, draft documents, prepare pleadings, research briefs, negotiate agreements and settlements, plea bargain cases, and conduct related activities. Every week during the semester the student law firms will receive information about new cases and problems or continuing developments.

Realism will be created and maintained by providing the firms with actual clients and with realistic simulated experiences. The law firms will be provided office space and letterhead stationery. All documents will be filed in actual government offices and all proceedings will take place in real forums. The students will be sworn in at the beginning of the course and will be treated as lawyers, not law students, through the semester. Spontaneous and unpredictable events will be planned through the semester to foster the atmosphere of realism. Each student will be called late one night by a client seeking advice who has just been arrested. Some students will be unable to appear at a hearing requiring one of the other partners to decide what to do. The students will sponsor and conduct their own continuing legal education program and will be appointed to a bar association committee.

Full-time faculty will act as senior partners and tutor the stu-

dents in their areas of expertise. They will meet regularly with the law firms. Adjunct faculty will be retained to act as opposing or corroborating lawyers and as judges, hearing officers, agents, and clients. The student lawyers will be given substantial responsibility and latitude during the beginning of a client problem or case and will be guided, provided time to discover issues and solutions on their own, and prodded to reach their own conclusions regarding decisions, strategies, and tactics. The course reflects the practice of law which consists of related and integrated areas and which requires lawyers to analyze and synthesize those various areas.

The Practicum course represents the first of a series of other practicum courses. In the future a Corporate Law Office Practicum may be developed to replicate the corporate practice of law, and a Government Law Office Practicum may be created to reflect the practice of government lawyers. These courses represent an evolutionary step in the Mitchell curriculum and a revolutionary step in legal education.

2. *Teaching Law Clinic*

Many full-time faculty currently teach, administer, or supervise a clinical course at Mitchell. This year, twelve faculty out of a total of thirty-three, including three administrative deans, will be involved in a clinic fieldwork course. In the future, the percentage may increase with additional faculty teaching both traditional courses and clinical classes. This evolutionary process may create a completely integrated clinical curriculum that would resemble the operations of a teaching law clinic where faculty rotate teaching functions and responsibilities for clinic courses. A system like this may assume an equality of interest and capabilities among faculty members, an assumption which may prove to be inaccurate or impractical. Full faculty involvement in clinical education might be more appropriate in simulated courses rather than in fieldwork courses. The control, structure, and timing of simulated classes compared to fieldwork experiences may provide a more realistic and more economic model of full faculty integration.

3. *Fee Income Clients*

Students at Mitchell and other law schools with clinical programs have traditionally represented indigent clients or governmental agencies. Mitchell will soon begin an experimental fee

income clinic in which students will represent clients who will pay a fee, based on ability to pay, for legal services rendered. This pilot program will allow students to represent clients with problems and in cases that are more varied and complex than poverty law matters and that reflect the private practice of law. The program will also provide income to help defray the costs of clinical education. Attempts have been made to minimize problems with law school fee income clinics including matters of client satisfaction, competition with the practicing bar, and conflicts between educational goals and income needs. It is anticipated that the educational and financial benefits of fee income clinics will outweigh these problems.

4. Combined Educational/Employment Clinics

Many students at Mitchell work in law-related jobs, often as clerks with law firms or judges. Some clinic courses offer educational experiences similar to the experiences these students have on their jobs. A basic and significant difference between clinic courses and a student's job experience is that in clinics the student is treated as an attorney directly involved in decision-making processes, while many employers view students as law clerks who do what they are told. Nevertheless, it may be feasible to develop a program that would serve both the educational nature of a clinical course and the needs of an employer. Students could then receive credit for some of their activities and a salary for the remainder of their work. This coordinated approach would benefit both the law school and employers.

5. Expanded Clinical Course Components

Efforts are being made at Mitchell to add three learning components to the clinic courses. First, computerized learning programs would provide students with programmed learning, computer tutoring, and analytical and repetitive exercises. The combination of demonstration videotapes and the advent of video discs provide for the development of further technological learning aids. Second, courses that focus on dispute resolution processes other than traditional litigation and negotiation methods would afford students a broader understanding of and exposure to effective alternative approaches. A clinic course in arbitration, mediation, conciliation, as well as administrative and legislative methods, is being developed to fill this need. Third, law reform problems and

cases provide students with an additional educational dimension. The Mitchell clinical program has traditionally focused on cases and problems that will conclude in one semester as vehicles for student experiences. The inclusion of complex cases, complicated issues, and related law reform issues will permit a more balanced curriculum.

6. Empirical Research and Policy Analysis

Mitchell has initiated empirical research studies in several legal and clinical areas. A survey of judges and trial lawyers is being conducted to gather information on how judges are influenced during court trials and how they decide cases. One survey reviewed hundreds of simulated and actual negotiations to ascertain effective and ineffective strategies and tactics. Another survey of trial lawyers is focusing on negotiations to determine how the lawyers prepare for and conduct settlement negotiations. Additional surveys will soon begin to study motion arguments and hearings and to review client representation and satisfaction. Clinic cases, clients, files, successes, failures, and students provide a natural source of materials and assistance for empirical research and policy analysis concerning lawyer competencies and legal processes.

7. Advanced Degree and Specialty Practice Programs

Mitchell is currently determining the feasibility of implementing an LL.M. program in taxation. Because one strength of the Mitchell faculty is in trial advocacy and clinical instruction, consideration also has been given to initiating an LL.M. program in trial advocacy, litigation, or clinical teaching.

A related program specialty being discussed involves the creation of specialty continuing legal education courses. These courses would meet the growing need of practitioners for an in-depth and intensive learning experience to develop or enhance their specialties. Mitchell has offered such courses in the area of trial practice and litigation, and has mixed both lawyers and law students as participants with success.

V. CONCLUSION

The William Mitchell clinical program is very much alive and well as it begins its second decade of operations. Approximately 16,000 clients have been represented by over 3,000 students during the past ten years. The past ten years have been a decade of pro-

gress and growth involving the development of an innovative and extensive clinical program. Our primary goals have been to provide Mitchell students with learning experiences that were practical as well as theoretical, relevant as well as challenging, and reflective as well as exciting. Our secondary goals have been to research and develop clinical education theories and concepts, to create innovative clinical courses, to provide legal services to clients unable to afford representation, to serve community interests, to revolutionize legal education, and to establish a successful local, regional, and national reputation. We have accomplished much and learned much more. We realize that we have that much more to accomplish and learn.