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# How Much Clinic for How Many Students?: Examining the Decision to Offer Clinics for One Semester or an Academic Year

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## ARTICLES

### HOW MUCH CLINIC FOR HOW MANY STUDENTS?: EXAMINING THE DECISION TO OFFER CLINICS FOR ONE SEMESTER OR AN ACADEMIC YEAR

KELE STEWART\*

#### ABSTRACT

Many law schools are engaged in curricular reform aimed at more effectively preparing students for practice. Two publications that have influenced these reform efforts, *Best Practices for Legal Education* and the Carnegie Foundation's report *Educating Lawyers: Preparation for the Profession of Law*, suggest that there should be more clinical opportunities. With limited resources, there is an apparent tension between providing live-client clinics to as many students as possible versus a deeper clinical experience over an academic year. This Article examines the questions raised by a law school's decision to offer a clinic for one semester or two. In designing a coherent curriculum, law schools should be able to articulate the justification for the particular mix in length and types of experiential opportunities. The first part of the Article analyzes clinical scholarship, adult learning theory and the author's

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\* Associate Professor of Clinical Education, University of Miami School of Law. I would like to thank Anthony Alfieri, Melissa Breger, JoNel Newman, Bernard Perlmutter, Jenny Roberts, and James Stark for their support and comments. I am also grateful to the participants in the AALS Clinical Section Works-in-Progress Session (May 5, 2010), and clinicians who responded to my listserv inquiry or otherwise shared their experiences. I would also like to thank research assistants Michael DelSontro, Jennifer Pratt, Samantha Preston, and Bryan Doeg.

experience teaching a child advocacy clinic to assess the advantages and disadvantages of one-semester and year-long clinics. The author concludes that there are sufficient benefits to a full year of clinic that some year-long clinics should be part of a robust curriculum. Notwithstanding this view, she recognizes that providing the maximum number of students with a clinic is a laudable goal and students can get a meaningful experience in one semester. The second part of the Article offers recommendations for designing one-semester clinics based on the author's experience converting a year-long clinic to a one-semester clinic. The author suggests that, in offering clinics for one semester, clinicians cannot do it all and instead must make conscious choices in clinic objectives and design to ensure that students maximize the identified learning goals.

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## I. INTRODUCTION

Inspired, or indicted, by recent calls for reform of legal education, most notably in the Carnegie Report<sup>1</sup> and Best Practices,<sup>2</sup> many law schools are engaged in curricular reform.<sup>3</sup> These reports conclude that traditional legal education's emphasis on case analysis fails to adequately prepare students for all dimensions of law practice. Clinical education—in which students learn by working on real cases for real clients—has been proposed as one solution to the shortcomings in the current legal education system.<sup>4</sup> As schools seek to implement the recommendations of the Carnegie Report and Best Practices, they are considering ways to improve and expand clinical opportunities. Within this context, the question of how long students should spend in clinics is an important one.

Both the Carnegie Report and Best Practices advocate more clinical opportunities for students.<sup>5</sup> The critiques suggest that attention be paid not only to increasing the type and number of clinical slots, but to providing quality clinical education that achieves explicit institutional goals.<sup>6</sup> Due to resource constraints, schools often make difficult choices about how to achieve that imperative.<sup>7</sup> Clinic classes typically have low faculty-to-student ratios because of the intensive nature of clinical supervision.<sup>8</sup> Should schools offer clinics for one semester in an effort to provide clinics to as many students as possible? Should clinics be offered for a full academic year to provide maximum opportunity for each student to be practice-

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1. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT].

2. ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (Clinical Legal Educ. Ass'n, 1st ed. 2007), available at [http://www.cleaweb.org/best\\_practices-full.pdf](http://www.cleaweb.org/best_practices-full.pdf) [hereinafter BEST PRACTICES].

3. CARNEGIE REPORT, *supra* note 1, at 19; BEST PRACTICES, *supra* note 2, at 4.

4. Margaret Martin Barry et al., *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 14, 47-48 (2000).

5. See, e.g., CARNEGIE REPORT, *supra* note 1, at 194-95; BEST PRACTICES, *supra* note 2, at 275-82.

6. See BEST PRACTICES, *supra* note 2, at 276.

7. Barry et al., *supra* note 4, at 22.

8. *Id.*

ready when he or she graduates?<sup>9</sup> While clinical scholars recognize that clinic length is a factor in clinic design, none have fully explored these questions, or analyzed how the duration of the clinic interacts with student learning, institutional and clinic goals, fiscal and political issues, and other aspects of clinic design.<sup>10</sup>

This Article is framed by my experience teaching the University of Miami Children and Youth Law Clinic (“CYLC”), which traditionally enrolled students for an academic year. In response to increasing student demand for clinics at the University of Miami School of Law, my colleague Professor Bernard Perlmutter and I decided to allow some students to take CYLC for only a semester. Having participated each year in a painful selection process during which we turned down earnest students, I agreed that we should try a one-semester clinic, despite my apprehensions about the logistics and impact on both students and clients. We offered the traditional year-long model to one group of students, and

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9. According to the Center for the Study of Applied Legal Education (“CSALE”), 65.6% of clinics have a mandatory enrollment term of one semester. David A. Santacroce & Robert R. Kuehn, *Report on the 2007-2008 Survey*, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., 1, 14 (2008), available at <http://www.csale.org/files/CSALE.07-08.Survey.Report.pdf>. Additionally, the CSALE reports that 51.7% of clinics allow some students to take the clinic beyond the mandatory enrollment term. *Id.* In a study of associates conducted by the National Association of Legal Professionals (“NALP”), of the 278 respondents who took part in clinics, 56.3% had participated for one semester, 32.3% for two semesters and 11.5% for more than two semesters. *2010 Survey of Law School Experiential Learning Opportunities and Benefits* NAT’L ASS’N FOR LAW PLACEMENT & NAT’L ASS’N FOR LAW PLACEMENT FOUND., 1, 10 (2010), available at <http://www.nalp.org/uploads/2010ExperientialLearningStudy.pdf> [hereinafter *Experiential Learning Study*].

10. Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLINICAL L. REV. 109, 151-52 (2001) (noting that questions such as the number of semesters for clinics should be analyzed in terms of learning theory and impact on skills and values training); Keith A. Findley, *The Pedagogy of Innocence: Reflections on the Role of Innocence Projects in Clinical Legal Education*, 13 CLINICAL L. REV. 231, 268 (2006) (concluding that requiring a twelve month commitment allowed students to get a more meaningful experience in the Wisconsin Innocence Project); Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 193-94 (1996) (identifying clinic length as a consideration in clinic design).

simultaneously ran a one-semester version for one group of students in the fall and another in the spring. This allowed us to increase clinic capacity by one-third.<sup>11</sup> For law schools developing new clinics, or seeking to create additional slots in existing clinics, whether to offer the clinic for one semester or a full academic year is an important decision that must be made about clinic design.<sup>12</sup>

This Article has two components. The first analyzes the advantages of offering a clinic for either a full academic year or one semester. The second shares lessons from my experiment trying to convert a year-long clinic into a one-semester clinic. The overarching goal of both components is to assist law schools and faculty developing clinical programs to be thoughtful and intentional about the reasons for choosing a particular approach.<sup>13</sup> In designing a coherent curriculum, law schools should be able to articulate the justifications for the particular mix in length and types of experiential opportunities.<sup>14</sup>

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11. Professor Perlmutter and I previously supervised nine students each for a total of eighteen students in an academic year. During the 2008-2009 academic year when we offered the one-semester option, along with the usual year-long model, a total of twenty-seven students took the clinic. Full adoption of a one-semester model would allow us to double capacity in the academic year. After the 2008-2009 year, we went back to a year-long model. We were nonetheless able to expand clinic capacity the following year with the creation of a supervising attorney/fellow position. This is a full-time position at the law school that allowed us to hire Carolina Guacci, an attorney with a few years of experience in juvenile practice, to supervise additional students and co-teach the clinic class.

12. Schrag, *supra* note 10, at 193.

13. To help analyze these issues, I posted an inquiry on the clinic listserv asking faculty who had taught in both one-semester and year-long clinics about the advantages and disadvantages of each, the reasons for the change, and any structural or design changes they made as a result. Posting of Kele Stewart, [kstewart@law.miami.edu](mailto:kstewart@law.miami.edu), to [lawclinic@lists.washlaw.edu](mailto:lawclinic@lists.washlaw.edu) (Dec. 9, 2010) (on file with the John Marshall Law Journal). In addition, I asked students who participated in the CYLC during the year of the one-semester option whether the clinic should be offered for a semester or an academic year. E-mail from Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics to 2008-2009 CYLC Participants (Mar. 24, 2010, 3:29 PM) (on file with John Marshall Law Journal).

14. Engler, *supra* note 10, at 150. See also Deborah A. Maranville et al., *Re-Vision Quest: A Law School Guide to Designing Experiential Courses*

Part II of the Article reviews current efforts at curricular reform, and explains why the question of how much clinic for how many students is both important and timely. Part III provides the advantages of offering a clinic for a full academic year. With full-year clinics, the primary advantage is that students just don't "get it" in one semester; they need an entire year to master the facts, law, interpersonal relationships, and to begin exercising the independent professional judgment that lies at the heart of being a lawyer. Moreover, the types of cases students can work on tend to be more complex and far-reaching. Part III of the Article also examines these claims in light of learning theory and clinical pedagogy, and considers several other benefits to students, clients and law schools.

Part IV provides advantages of offering clinics for one semester. The commonly cited advantage to limiting clinics to one semester is that more students can participate in clinics. Students may also be better able to balance clinic with other courses, as well as participate in resume-building activities such as outside legal jobs or moot court. Faculty may also be more consistently engaged and have the flexibility to take a semester off to teach other courses or focus on scholarship. It should also be noted that the pedagogical advantages of clinics generally exist in a year-long clinic. Moreover, there are some clinics that, even when given a choice, simply work better as one-semester offering.

Part V offers some reflections from my experience offering the Children and Youth Law Clinic for one semester. Based on the lessons learned, Part VI considers how to design a one-semester clinic that maximizes student learning, focusing on five aspects of clinic design: (A) Clinic Goals; (B) Case Selection; (C) Credits, Caseload and Pre- or Co-Requisites; (D) Beginning and Transferring Cases; and (E) Class Room Component. I then apply some of these considerations to reconstruct the CYLC as a one-semester clinic.

I conclude that there are sufficient significant benefits to having a full year of clinic that some year-long clinics should be part of a robust curriculum. Notwithstanding this view, the inclination to make clinics available to more students is a



worthy goal, and students can get a meaningful experience in a semester. In expanding clinical programs, law schools and clinicians should weigh carefully the trade-offs in deciding both the length and design of the clinic. For clinicians converting an existing clinic into one semester,<sup>15</sup> there may be a temptation to simply keep doing the same thing, just plugging in a different set of students at the start of a new semester. I suggest that, in offering clinics for one semester, we cannot do it all and instead must make conscious choices in clinic objectives and design to ensure that students maximize the identified learning goals.

## II. THE IMPORTANCE OF DETERMINING HOW MUCH CLINIC FOR HOW MANY STUDENTS IN DEVELOPING THE LAW SCHOOL CURRICULUM

There has been recent focus within law schools on reforming legal education, and particular attention to the role of experiential learning in the curriculum. The impetus for curricular change came from both within and outside the academy, spurred in part by two influential publications: *Educating Lawyers*<sup>16</sup> (“Carnegie Report”) and *Best Practices for Legal Education*<sup>17</sup> (“Best Practices”). The Carnegie Report concludes that the emphasis traditional legal education places on case analysis fails to adequately prepare students for all dimensions of legal practice.<sup>18</sup> In addition, the Carnegie Report advocates that law schools adopt a comprehensive and integrated approach to teaching what it terms the three apprenticeships: legal analysis, practical skill, and professional identity.<sup>19</sup> As such, lawyering skills and professional values

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15. Whether imposed by internal or external pressures (such as student demand, law school deans, or curriculum committees), some clinicians have converted existing clinics from a one-year model to a one-semester model. See, e.g., E-mail from David Barnhizer, Prof. of Law Emeritus, Cleveland-Marshall Coll. of Law, to author (Dec. 10, 2010, 2:34 PM) (on file with the John Marshall Law Journal); E-mail from Irene Scharf, Dir. of Clinical Programs & Experiential Learning, Univ. of Mass. Sch. of Law – Dartmouth, to author (Dec. 10, 2010, 3:53 PM) (on file with the John Marshall Law Journal).

16. CARNEGIE REPORT, *supra* note 1.

17. BEST PRACTICES, *supra* note 2.

18. CARNEGIE REPORT, *supra* note 1, at 186-88.

19. *Id.* at 13-14, 27-29.

should assume as much primacy in the curriculum as currently occupied by legal analysis.<sup>20</sup> Clinics are identified as a pedagogical approach that potentially integrates all three apprenticeships.<sup>21</sup> The Carnegie Report notes:

Law schools, we believe, need to give the teaching of practice a valued place in the legal curriculum so that formation of the students' professional judgment is not abandoned to chance. The past several decades of progress in pedagogies for teaching lawyering, including well-organized clinical experiences with actual clients, hold the promise of rescuing this vital function of apprenticeship for practice from the vagaries of curricular accident and establishing it as a basic part of legal preparation.<sup>22</sup>

According to the Carnegie Report, "[i]f one were to search for a single term to describe the ability [clinics] hone best, it is probably *legal judgment*."<sup>23</sup> While the Carnegie Report cites examples of efforts to develop an integrated curriculum, it does not endorse a particular approach. Instead, the Carnegie Report challenges the legal academy to think intentionally and creatively about how to meet this imperative.<sup>24</sup>

Also in 2007, the Clinical Legal Education Association ("CLEA") published *Best Practices*, which also concluded that law schools do not adequately prepare graduates for practice.<sup>25</sup> Going beyond that critique, *Best Practices* provides both a process and concrete suggestions for improving legal education consistent with educational theories.<sup>26</sup> The key recommendations require law schools to clarify and expand their educational goals, improve and diversify the methods of instruction, and more effectively assess both student learning and the educational program.<sup>27</sup> Clinics and experiential learning generally, are emphasized as an important part of the

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20. *Id.* at 13-14.

21. *Id.* at 120-22; *see also* Engler, *supra* note 10, at 119-20; Barry et al., *supra* note 4, at 7; Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1079-81 (2009).

22. CARNEGIE REPORT, *supra* note 1, at 115.

23. *Id.* at 122.

24. *Id.* at 180-84, 194-98.

25. BEST PRACTICES, *supra* note 2, at 11.

26. *Id.* at 7-9, 275-81.

27. *Id.* at 7-9.

curriculum.

The Carnegie Report and Best Practices have garnered considerable attention and created momentum to look closely at how we educate future attorneys. Since 2007, legal education reform, or responding to some aspect of the reports, has been the subject of several conferences<sup>28</sup> and numerous articles by legal scholars.<sup>29</sup> Ten law schools have partnered with the Carnegie Foundation to form the Legal Education Analysis and Reform Network (“LEARN”) to promote implementation of the Carnegie Report.<sup>30</sup> With respect to the Best Practices report,

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28. See, e.g., AALS CONFERENCE ON THE FUTURE OF THE LAW SCHOOL CURRICULUM (June 11-14, 2011), available at <http://www.aals.org/curriculum2011/CurriculumBrochure2011.pdf>; AALS CONFERENCE ON CLINICAL LEGAL EDUCATION WORKBOOK, ANSWERING THE CALL FOR REFORM: USING OUTCOMES ASSESSMENT, CRITICAL THEORY AND STRATEGIC THINKING TO IMPLEMENT CHANGE (May 4-8, 2010), available at <http://www.aals.org/clinical2010/booklet.pdf>; LEGAL EDUCATION REFORM AFTER CARNEGIE: BRINGING LAW-IN-ACTION INTO THE LAW SCHOOL CLASSROOM (Oct. 22-23, 2010), available at <http://www.law.wisc.edu/ils/2010legaleducationconf/homepage.html>; IMPLEMENTING BEST PRACTICES AND EDUCATING LAWYERS: TEACHING SKILLS AND PROFESSIONALISM ACROSS THE CURRICULUM (June 23-24, 2009), available at <http://lawteaching.org/conferences/2009/index.php>; INTERNATIONAL CONFERENCE ON THE FUTURE OF LEGAL EDUCATION (Feb. 20-23, 2008), available at <http://law.gsu.edu/FutureOfLegalEducationConference/>.

29. See, e.g., Randy D. Gordon, *How Lawyers (Come to) See the World: A Narrative Theory of Legal Pedagogy*, 56 LOY. L. REV. 619 (2010); Rogelio A. Lasso, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 BARRY L. REV. 73 (2010); James R. Maxeiner, *Educating Lawyers Now and Then: Two Carnegie Critiques of the Common Law and the Case Method*, 35 INT’L J. LEGAL INFO. 1 (2007).

30. LEGAL EDUCATION ANALYSIS AND REFORM NETWORK, GENERAL DESCRIPTIONS OF PLANNED PROJECTS 2009-2010 (2009), available at [http://www.law.stanford.edu/display/images/dynamic/events\\_media/LEARN\\_030509\\_lr.pdf](http://www.law.stanford.edu/display/images/dynamic/events_media/LEARN_030509_lr.pdf). The ten law schools participating in LEARN are: CUNY Law School, Georgetown University Law Center, Harvard Law School, Indiana University School of Law (Bloomington), New York University School of Law, Southwestern Law School, Stanford Law School, University of Dayton School of Law, University of New Mexico Law School, and Vanderbilt University Law School. *Id.* at 5. LEARN has three working groups focused on: (1) “maintain[ing] and enhance[ing] the momentum for law schools across the country to consider whether their curricula reflect the needs for teaching a wider variety of subjects, creating a wider array of

CLEA has developed a Best Practices implementation group that provides technical assistance to law schools and is currently working on a second edition. These are not the first reformist efforts aimed at making law school more relevant to practice.<sup>31</sup> The well-known MacCrate Report is an earlier indictment against legal education's emphasis on non-practical skills.<sup>32</sup> The MacCrate report concluded that law schools need to more effectively prepare students to competently practice law, and identified ten "fundamental lawyering skills" and four "fundamental values" that law schools should teach.<sup>33</sup> Although it received considerable attention, the MacCrate Report was generally not embraced by mainstream academia and did not lead to far-reaching changes throughout the law school curriculum.

There are now a confluence of other forces driving the academy itself to critically re-examine how best to educate law students. Recent studies show that law students and recent graduates value opportunities to get practice skills while in law school. According to one empirical survey, *After the JD*, new attorneys ranked clinical courses as more useful in making the transition to practice than other courses in the law school curriculum, including the first-year curriculum, upper-level, and course concentrations.<sup>34</sup> The only experiences ranked more useful than clinics were legal employment during the summer and the school year.<sup>35</sup> The Law School Survey of Student

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learning environments (such as simulations and clinical work), and integrating the teaching of the three apprenticeships"; (2) transmitting reform initiatives to individual faculty; and (3) examining the role of assessments in legal education. *Id.* at 10-11.

31. See Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57, 61-70 (2009) (summarizing earlier critiques of legal education and providing a history of efforts to reform legal education).

32. TASK FORCE ON LAW SCH. AND THE PROFESSION: NARROWING THE GAP, AM. BAR ASS'N SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, LEGAL EDUC. AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter MACCRATE REPORT].

33. *Id.* at 138-41.

34. Ronit Dinovitzer et al., *After the JD: First Results of a National Study of Legal Careers*, NAT'L ASS'N FOR LAW PLACEMENT FOUND. & AM. BAR FOUND., 81 (2004), available at <http://www.americanbarfoundation.org/uploads/cms/documents/ajd.pdf>.

35. *Id.* at 79.

Engagement (“LSSSE”) “suggest[s] that clinical experience[s] may enhance [students’] learning about legal ethics[.]” and professionalism.<sup>36</sup> Moreover, a recent study from the National Association for Legal Professionals (“NALP”) indicated that 63.1% of law firm associates who had taken “clinics representing individual clients” found them “very useful” (four on a four-point scale), with another 21.2% ranking them a three on a four-point scale.<sup>37</sup> Law schools may take this feedback seriously in light of complaints from graduates about poor employment prospects and that future earning potential does not justify the high cost of legal education.<sup>38</sup>

The economic downturn and resulting changes in the legal market are also exerting pressure on law schools to produce practice ready graduates.<sup>39</sup> Clients demand cost-saving

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36. Carole Silver et al., *Unpacking the Apprenticeship of Professional Identity and Purpose: Insights from the Law School Survey of Student Engagement*, 17 J. LEGAL WRITING INST. 373, 396 (2011). LSSE is an annual national survey of law students that focuses on “the degree to which students use the school’s resources for learning in educationally productive ways” by asking about how students spend their time, what they experience and how they benefit from those experiences. *Id.* at 379 n.28 (quoting Patrick T. O’Day & George D. Kuh, *Assessing What Matters in Law School: The Law School Survey of Student Engagement*, 81 IND. L.J. 401, 405-06 (2006)). With respect to legal ethics, students were asked which types of law school settings were effective for learning legal ethics. *Id.* at 384. The authors found “that clinical experience may enhance learning legal ethics, but more research is necessary to confirm the direct relationship.” *Id.* at 396. With respect to professionalism, students with a clinical experience, whether or not they also had paid legal work experience, reported higher positive gains in terms of “building [positive] relationships with future clients, [deepening the] capacity for moral reasoning, [preparation for] handling the stress of law practice, [strengthening commitment to] serving the public good, and acting with integrity[.]” in both personal and professional settings. *Id.* at 399-400.

37. *Experiential Learning Study*, *supra* note 9, at 26.

38. David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 8, 2011, at BU1, available at [http://www.nytimes.com/2011/01/09/business/09law.html?\\_r=1](http://www.nytimes.com/2011/01/09/business/09law.html?_r=1).

39. Cynthia Baker & Robert Lancaster, *Under Pressure: Rethinking Externships In A Bleak Economy*, 17 CLINICAL L. REV. 71, 91 (2010) (exploring how the economic downturn has created changes in “pedagogy and structure” of law school externship programs); Clark D. Cunningham, *Should American Law Schools Continue To Graduate Lawyers Whom Clients Consider Worthless?*, 70 MD. L. REV. 499, 502-03 (2011)

measures and are no longer willing to pay to train junior associates.<sup>40</sup> Large law firms that previously absorbed a significant number of graduates at high salaries have cut back on hiring and seek junior associates who can add value.<sup>41</sup> Many law students who may have worked in larger law firms now enter solo practice, small firms, or non-law firm settings where they may not get formal training or individual mentorship. The net result is intense competition for jobs and students either enter firms where they are expected to hit the ground running, or encounter work settings where they will not receive formal or informal training. In these environments, there is pressure—and the need—for “law schools to fill the void” in terms of preparation and professional identity formation.<sup>42</sup>

In the current discussion about how best to prepare students for this demanding job market, there is often a focus on the role of law school clinics in the curriculum. Because of the developments in clinical education and scholarship over the past few decades, the contributions of this Article in exploring that role are particularly timely. There has been significant growth in the number of clinics offered across the country, as well as in the substantive areas and type of work performed.<sup>43</sup> Clinical scholarship is also further along in the types of questions being considered. Whereas the earliest clinical scholarship focused on “the general concept of using real cases to teach law students,” the 1970s and 1980s saw the emergence of scholarship defining clinical methodology and constructing a “common vocabulary of discourse on educational issues.”<sup>44</sup> Since the 1990s, clinical scholarship has flourished and solidified into a field that now confronts a broad range of questions.<sup>45</sup> The maturation of clinical education and scholarship allows rich and nuanced

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(explaining that the current economy prevents law firms from being able to provide mentoring and on-the-job training).

40. Steven C. Bennett, *When Will Law School Change?*, 89 NEB. L. REV. 87, 109-10 (2010).

41. *Id.* at 110-13.

42. Charlotte S. Alexander, *Learning to Be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 466 (2011).

43. J.P. “Sandy” Ogilvy, *Celebrating CLEPR’S 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLINICAL L. REV. 1, 15, 19 (2009).

44. Barry et al., *supra* note 4, at 16-17 (citation omitted).

45. *Id.* at 18.

discussions about how to provide quality clinical education and its connections to the broader curriculum.

Within this context, questions about *how much clinic for how many students* become important. What precisely does it mean to provide more clinical opportunities to students? And is the goal to provide a clinical experience deep enough to be able to stamp “practice-ready” on a student’s forehead? Both the Carnegie Report and Best Practices recommend that law schools provide more clinical opportunities for students.<sup>46</sup> Specifically, the Carnegie Report suggests a third year “cap stone” experience for every student that would involve an opportunity to practice.<sup>47</sup> In forecasting the future of clinical education, Margaret Barry, Jon Dubin, and Peter Joy envision “an in-house clinical experience for every student.”<sup>48</sup> In fact, several schools have instituted mandatory clinic requirements.<sup>49</sup> Given the relatively small class sizes of clinics, the cost of clinical education is often cited as one of the reasons not to expand clinical programs.<sup>50</sup> Limiting clinics to one semester is viewed

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46. CARNEGIE REPORT, *supra* note 1, at 87-89; BEST PRACTICES, *supra* note 2, at 8-11, 167.

47. CARNEGIE REPORT, *supra* note 1, at 195.

48. Barry et al., *supra* note 4, at 18.

49. UNIV. OF N.M. SCH. OF LAW, DEGREE REQUIREMENTS, REQUIRED COURSES, *available at* <http://lawschool.unm.edu/academics/programs/requirements.php> (last visited Dec. 15, 2011) (requiring every student to “participate satisfactorily in at least six hours of clinical law school...”); CITY UNIV. OF N.Y. SCH. OF LAW, CURRICULUM/COURSES, *available at* <http://www.law.cuny.edu/academics/curriculum.html> (last visited Dec. 15, 2011) (requiring “one or two semester clinic or concentration, for a total of 12-16 credits...”); UNIV. OF CAL. – IRVINE, SCH. OF LAW, DEGREE REQUIREMENTS, UPPER LEVEL ACADEMIC REQUIREMENTS, *available at* [http://www.law.uci.edu/registrar/jd\\_requirements.html](http://www.law.uci.edu/registrar/jd_requirements.html) (last visited Dec. 15, 2011) (requiring students “to complete at least one semester of clinical education...”). *See also* ALBANY LAW. SCH., SCHS. REQUIRING EXPERIENTIAL COURSES, *available at* [http://www.albanylaw.edu/sub.php?navigation\\_id=1737](http://www.albanylaw.edu/sub.php?navigation_id=1737) (last visited Dec. 15, 2011) (providing a list of law schools with mandatory experiential requirements).

50. MACCRATE REPORT, *supra* note 32, at 254 n.36; Barry et al., *supra* note 4, at 21-22 (summarizing studies that discuss the high per student cost of clinics); Erwin Chemerinsky, *Why Not Clinical Education?*, 16 CLINICAL L. REV. 35, 38 (2009) (identifying cost as one of the obstacles to growth of

as a way to offer clinical opportunities to more students without investing additional resources. In a world with limited resources, there is an apparent tension between being able to certify that each student who passes through a clinic will leave law school ready to practice, and ensuring that every student has some opportunity to gain practice skills. Advocates of clinical education suggest that cost should not drive the discussion in resolving these tensions, but instead curricular developments should focus on the school's goals and quality of the educational experience.<sup>51</sup>

Regardless of how law schools ultimately resolve these tensions, the most important thing is that law schools understand the trade-offs involved and thoughtfully develop clinical opportunities that meet institutional goals. The Carnegie Report notes:

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clinical education).

51. Advocates of clinical education are starting to challenge the premise that clinical education is "too expensive" to become a pervasive part of the curriculum. Barry, Dubin, and Joy note:

What such discussions of the costs of clinical instruction generally lack, however, is a normative assessment of what is actually needed to provide a quality legal education that prepares students for the practice of law. When the discussion is focused on the quality of the educational experience, then budget increases – or budget reallocations – to fund an expansion of in-house clinical programs become more realistic and palatable.

Barry et al., *supra* note 4, at 23. They argue that any discussions of cost should involve a broader view of the law school budget and current cost allocations. *Id.* at 23-26. Analyzing the cost of clinical education is also the subject of discussion at recent conferences. *See, e.g.*, BRENDA B. BLOM & JEFF J. POKORAK, BEYOND A COST/BENEFIT ANALYSIS: MUSTERING THE ARGUMENTS FOR A VALUE-BASED PROGRAM DECISION, ASS'N AM. LAW SCHS. CONFERENCE ON CLINICAL LEGAL EDUCATION, 35 (June 16, 2011), *available at* <http://www.aals.org/clinical2011/Clinical&CurriculumWorkbooklet.pdf>; BOS. COLL. THIRD WORLD LAW J. SYMP: THE WAY TO CARNEGIE: PRACTICE, PRACTICE, PRACTICE: A CONVERSATION ABOUT PEDAGOGY, SOCIAL JUSTICE AND COST IN LEGAL EDUCATION (Oct. 28, 2011). I agree that law schools need to think more critically about the assumption that clinical education is "more or too" expensive. Exploring the cost question, however, is beyond the scope of this Article. Instead, this Article identifies and attempts to address the tensions that are inherent in many curricular discussions, which are framed in terms of cost at many law schools across the country.



Research validates the widespread belief that developing professional judgment takes a long time, as well as much experience. It cannot typically be achieved within three years of law school, no matter how well crafted the students' experience. But those years in law school can give students a solid foundation and, as they begin their careers in the law, useful guidance on what they need to continue to develop—if the curriculum and teaching in law school are conceived and carried out with the intentional goal of promoting growth in expertise. Knowing the end is an essential step toward figuring out the best means for getting to it.<sup>52</sup>

While schools have made progress in providing students more experience and choices, “efforts to improve legal education have been more piecemeal than comprehensive. Few schools have made the overall practices and effects of their educational effort a subject for serious study. Too few have attempted to address these inadequacies on a systematic basis.”<sup>53</sup> To assist law schools in making intentional curricular decisions, this Article examines the trade-offs between offering clinical opportunities to as many students as possible and deeper clinical experiences to those who want it.

### III. ADVANTAGES OF A YEAR-LONG CLINIC

#### *A. Students Have More Time and Experience to Develop Legal Skills*

Clinical scholars have anecdotally shared their sense that students cannot become proficient at the multi-faceted dimensions of practicing law in just one semester.<sup>54</sup> In

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52. CARNEGIE REPORT, *supra* note 1, at 115-16.

53. *Id.* at 190.

54. James H. Stark, *Preliminary Reflections on the Establishment of a Mediation Clinic*, 2 CLINICAL L. REV. 457, 463 (1996) (noting that in his mediation clinic “[e]ach semester, I have frontloaded more skills training into the first weeks of the semester. Nevertheless, students tell me that they barely begin to discover their sea legs . . . when the semester comes to an end.”); Hope Babcock, *Environmental Justice Clinics: Visible Models of Justice*, 14 STAN. ENVTL. L.J. 3, 39 (1995) (noting that structuring a one semester environmental clinic poses pedagogical challenges); Findley, *supra* note 10, at 269 (learning through trial and error that students in an innocence clinic got a more meaningful experience when the commitment was extended to twelve months). On December 9, 2010, I posted an inquiry on the law clinic listserv asking anyone who had changed from a year-long clinic to a

*Handling Big Cases in Law School Clinics*, Nancy Maurer laments, “[j]ust as their skills begin to emerge and their interest peaks, the semester winds down. Students, who are not able to quickly master the file, absorb the case history, understand the client and grasp the necessary law and procedure, are too easily relegated to observer status.”<sup>55</sup> For those clinicians who have taught both one-semester and year-long clinics, the difference in student growth is discernible.<sup>56</sup> Having turned a one-semester consumer and social security clinic into a year-long clinic, Phillip Schrag comments:

The result, predictably, was very satisfying to us and to our students, and entirely unsatisfactory to those on our waiting list. We served fewer students over the course of the year than [the one-semester clinic] would have served, but each student handled more than one case of each type and students could learn from experience (including mistakes) and observe their own improvement from one semester to the next.<sup>57</sup>

For these reasons, several clinical scholars have recommended year-long clinics based on their own experience.<sup>58</sup>

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one-semester clinic, or vice versa, why they had made the change; how the goals for the course changed; how the structure and design of the clinic change; and what were the advantages and disadvantages of doing either a one-semester or a year-long clinic? Posting of Kele Stewart, [kstewart@law.miami.edu](mailto:kstewart@law.miami.edu), to [lawclinic.lists.washlaw.edu](mailto:lawclinic.lists.washlaw.edu) (Dec. 9, 2010, 10:08 AM) (on file with John Marshall Law Journal). The respondents who preferred a year-long clinic typically expressed their sense that students needed an entire year to have a meaningful clinic experience. E-mail from Maureen Laflin, Dir. of Clinical Programs, Univ. of Idaho Coll. of Law to author (Dec. 9, 2010, 1:06 PM) (on file with John Marshall Law Journal).

55. Nancy M. Maurer, *Handling Big Cases in Law School Clinics, or Lessons From My Clinic Sabbatical*, 9 CLINICAL L. REV. 879, 892 (2003).

56. My own experience teaching a one semester version of the University of Miami CYLC is described below. See *infra* Part V.

57. Schrag, *supra* note 10, at 198.

58. Findley, *supra* note 10, at 268 (arguing that one semester is not enough time for a rich educational experience in an Innocence Clinic and describing the Wisconsin Innocence Project where students make a 12-month commitment to the clinic); Andrew L.S. Leong, *A Practical Guide to Establishing an Asian Law Clinic: Reflections on the Chinatown Clinical Program at Boston College Law School*, 2 ASIAN PAC. AM. L.J. 83, 91-98 (1994) (recommending a year-long clinic based on lessons learned from the growth and ultimate demise of a clinic serving Boston’s Chinatown

Adult learning theory—which provides a useful framework to assess and design clinical courses<sup>59</sup>—confirms that there are legitimate reasons to extend the clinic experience beyond a semester.<sup>60</sup> Adult learning theory draws primarily from clinical and social psychology to examine how adults learn.<sup>61</sup> At its core, adult learning theory is concerned with learning, instruction, and transfer among adults. “Learning is a change in human disposition or capability, which persists over a period of time, and which is not simply ascribable to processes of growth.”<sup>62</sup> By instruction, learning theorists generally mean “the deliberate arrangement of learning conditions to promote the attainment of some intended goal.”<sup>63</sup> The third central aim in designing education based on adult learning theory is transfer, which means that learners can apply what was learned to a new situation or context.<sup>64</sup>

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residents). Several of the clinicians who responded to my list-serve inquiry also made this recommendation. *See, e.g.*, E-mail from Maureen Laflin, Dir. of Clinical Programs, Univ. of Idaho Coll. of Law, to author (Dec. 9, 2010, 1:06 PM) (on file with the John Marshall Law Journal); E-mail from Irene Scharf, Dir. of Clinical Programs and Experiential Learning, Univ. of Mass. Sch. of Law–Dartmouth, to author (Dec. 10, 2010 3:53 PM) (on file with the John Marshall Law Journal); Interview with Jane Spinak, Edward Ross Aranow Clinical Prof. of Law, Columbia Sch. of Law (Dec. 13, 2010).

59. Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 325 (1982).

60. *See* Michael Hunter Schwartz, *Teaching Law by Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, 366 (2001) (explaining that “[f]or learning to have occurred...the duration of the change is long-term rather than short-term...”) (citations omitted).

61. *Id.* Adult Learning Theory draws on different strands of clinical psychology including behaviorism, cognitivism, and constructivism. *Id.* at 365. It is referred to as andragogy to distinguish it from pedagogy, which refers to helping children learn. *Id.* at 350 n.6 (citation omitted). The goal for instructional designers is not to identify which theory is correct, but rather to use learning theory to select the best approach in particular circumstances. *Id.* at 362-63.

62. *Id.* at 366 (quoting ROBERT M. GAGNÉ, *THE CONDITIONS OF LEARNING AND THEORY OF INSTRUCTIONS* 3 (4th ed. 1985)).

63. *Id.* (quoting MARCY PERKINS DRISCOLL, *PSYCHOLOGY OF LEARNING FOR INSTRUCTION* 332 (1st ed. 1994)).

64. *Id.* at 366-67; *see also* COMM. ON DEVS. IN THE SCI. OF LEARNING & COMM. ON LEARNING RESEARCH AND EDUC. PRACTICE, COMM. ON BEHAVIORAL AND SOC. SCIS., *HOW PEOPLE LEARN*, NAT’L RESEARCH

There are two characteristics of adult learners with implications for the length of the clinic. First, adults have accumulated a range of experiences that they draw upon when learning new information.<sup>65</sup> Second, “[i]n contrast to children’s ... subject-centered orientation to learning ..., adults are life-centered (or task-centered or problem-centered) in their orientation to learning.”<sup>66</sup> Adult learning theory, with its focus

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COUNCIL 51 (John D. Bransford et al. eds., 2000), *available at* [http://www.nap.edu/openbook.php?record\\_id=9853&page=R1](http://www.nap.edu/openbook.php?record_id=9853&page=R1) [hereinafter HOW PEOPLE LEARN]; *see also* Anthony Marini & Randy Genereux, *The Challenge of Teaching for Transfer*, 2, in TEACHING FOR TRANSFER: FOSTERING GENERALIZATION IN LEARNING 1-20 (Anne McKeough et al., eds., 1995) [hereinafter TEACHING FOR TRANSFER].

65. MALCOLM S. KNOWLES ET AL., THE ADULT LEARNER: THE DEFINITIVE CLASSIC IN ADULT EDUCATION AND HUMAN RESOURCE DEVELOPMENT 181-83 (5th ed. 1998) [hereinafter THE ADULT LEARNER]. Knowles is credited with introducing in the United States the concept that adults and children learn differently and establishing andragogy as a distinct discipline. *Id.* at 1-3. His early works identified four characteristics that distinguish adult learners, but added two additional characteristics in later work. *Id.* at 64-69. First, adults “need to know” how learning will be conducted, what learning will occur, and why learning is important before they can engage in learning. *Id.* at 64-65. Second, adults view themselves as self-directing, in contrast with children who view themselves as wholly dependent on the instructor. *Id.* at 65. Third, adults have accumulated a range of experiences that they draw upon when learning new information. *Id.* at 65-66. Fourth, adults are most ready to learn a particular task if it is relevant to their social role and needed to cope with a real-life situation. *Id.* at 67. Fifth, in contrast to children’s subject-centered orientation to learning, adults are life-centered or problem-centered in their orientation to learning. *Id.* at 67-68. Sixth, “adults are responsive to some external motivators (better jobs, promotions, higher salaries, and the like),” but the most powerful “motivators are internal factors (the desire for increased job satisfaction, self-esteem, quality of life, and the like).” *Id.* at 68. *See also* Bloch, *supra* note 59, at 329.

66. THE ADULT LEARNER, *supra* note 65, at 67. Adults seek to apply learning immediately, as opposed to children’s view that learning is for some future benefit. *Id.*

Adults are motivated to learn to the extent that they perceive that learning will help them perform tasks or deal with problems that they confront in their life situations. Furthermore, they learn new knowledge, understandings, skills, values, and attitudes most effectively when they are presented in the context of application to real-life situations.

*Id.*

on experiential learning, supports the use of clinical methodology as an effective way to teach law students.<sup>67</sup> One school of learning theorists “emphasize the need for learners to be situated in real world settings in which they encounter the complex, multilayered, ill-structured, and ill-defined problems that arise in real life.”<sup>68</sup> Clinical education is experiential learning both in the sense that law students, especially second and third year law students, have life and law-related experiences that they bring to the clinic and the experience of actual representation in the clinic is a basis for learning.<sup>69</sup> While law students are generally ready to learn about the law, and thus open to all methods of instruction, “optimal compliance with the andragogically dictated sensitivity to the student’s readiness to learn is attained” when a law student is taught through representation of a real client in an active legal dispute.<sup>70</sup> The “class material” for clinics is the client’s real world problems capitalizing on adult learners’ orientation to problem solving. The learning is immediate as students must learn to solve the problems or face real consequences for themselves and the client.

More time in a clinic allows students to accumulate more experience upon which to learn. Clinical education allows law students to relate their own experience, as well as the new experiences gained in the clinic, to whatever is being taught in the clinic. In describing how clinical education satisfies the requirements of adult learning theory, Frank Bloch describes one of the earliest accounts of clinical education:

Gary Bellow and Earl Johnson found that students handling cases in their clinic began to be far more interested in their own experiences as a source of theoretical generalization, and far more concerned with theory as a tool for defining and understanding experience, than they were when they first started.<sup>71</sup>

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67. See Bloch, *supra* note 59, at 341; Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37, 49 (1995).

68. Schwartz, *supra* note 60, at 380.

69. Bloch, *supra* note 59, at 341.

70. *Id.* at 343.

71. *Id.* at 342 (quoting Gary Bellow & Earl Johnson, *Reflections on the University of Southern California Clinical Semester*, 44 S. CAL. L. REV.

In order for students to use their experiences in the clinic as a tool for learning, they must first accumulate a body of their own experience that they can apply to new situations and compare to faculty or course material's assertions about the situation.<sup>72</sup> Therefore, it is more likely that process will take place if students can take the clinic for a longer period.

Having clinic for two semesters also increases the likelihood that students will handle a legal matter from beginning to end. Learning theory suggests that students will learn best if they can actually use their accumulated experience to resolve the identified problem. Seeing the complete progression of a legal matter is important for student lawyers. Students get to experience every phase of the legal process, from the initial interview to the final disposition, and they can reflect on how choices they made early in the representation impacted the process and outcome.

Feedback, which can be provided in many forms, is a critical element in adult learning.<sup>73</sup> Clinical supervisors provide immediate feedback about every performance, but students also get feedback in other important ways. For example, when conducting research, students "either find relevant information or they find themselves struggling with dead ends and detours. The results cause them to make adjustments in their strategies and learning occurs."<sup>74</sup> In a clinical setting, one of the most meaningful opportunities for feedback arises from the students' reflection on how well they achieved their clients' goals. A student who only conducts fact investigation during a semester will certainly learn what that task entails. The supervisor might, for example, suggest that the student explore more avenues to uncover facts. If that student also has the opportunity to negotiate a settlement or conduct a trial, a lesson about how the students' fact investigation may have unwittingly narrowed the

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664, 688-89 (1971)).

72. *Id.* at 341-42.

73. Feedback is important because it concerns "the correctness of the learner's responses [and] is closely related to assessment of learning outcomes." *THE ADULT LEARNER*, *supra* note 65, at 83; *see also* *TEACHING FOR TRANSFER*, *supra* note 64, at 89 (stating "feedback encourages learners to pursue appropriate courses of action and builds feelings of confidence[.]").

74. Linda S. Anderson, *Incorporating Adult Learning Theory Into Law School Classrooms: Small Steps Leading to Large Results*, 5 *APPALACHIAN J.L.* 127, 145 (2006).

facts becomes that much more palpable.

*B. A Longer Time in the Clinic May Promote Transfer*

More time in the clinic may be necessary for far transfer—the application of learning to new and varied situations that require problem-solving.<sup>75</sup> Far transfer is essential in a legal context where “[t]he very essence of law practice is the ability to draw upon a set of core lawyering skills when faced with diverse facts and legal disciplines.”<sup>76</sup> To encode experience in students’ long-term memory, among other things, students must have several opportunities to practice using the skills, along with meaningful feedback.<sup>77</sup> “For example, if an instructor wants to develop students’ competency in determining what evidence to look for during discovery, students should have a number of opportunities to try their hand at this task.”<sup>78</sup> In a one-semester course, where students may do a task only once or twice, it is unlikely that students will get repeated opportunities to practice a skill, learn from the experience, and then get to practice the same skill repeatedly.

For far transfer, students should also “encounter the same type of problem in different contexts.”<sup>79</sup> Over the course of an academic year, it is more likely that the same type of problem will arise in different ways. For example, students get multiple opportunities to do client interviews in different types of cases and with clients who have very different personalities or challenges. Each interview may present an opportunity to learn and practice interview techniques, but students can begin to understand how interview theories work in a different context.

A year-long clinic allows the sequencing of instruction in a

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75. David A. Binder & Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLINICAL L. REV. 191, 198 (2003). In contrast, a near transfer involves the application of learning “to tasks that are relatively routine and repetitive in nature.” *Id.*

76. Tonya Kowalski, *True North: Navigating for the Transfer of Learning in Legal Education*, 34 SEATTLE U. L. REV. 51, 62 (2010); Binder & Bergman, *supra* note 75, at 198 (“In a legal context, far transfer tasks would include applying general principles of lawyering skills such as interviewing, counseling and negotiation to concrete inter-personal interactions.”).

77. Kowalski, *supra* note 76, at 76-77.

78. Binder & Bergman, *supra* note 75, at 201.

79. *Id.* at 201.

way conducive to transfer. Learning theory suggests “that instruction should be sequenced so that students can master early steps and easier problems early in instruction. Only later should students progress to more difficult and complex steps and problems.”<sup>80</sup> In order for learners to actively store learning in an organized, meaningful, and useable manner in long-term memory, psychologists recommend creating learning experiences to allow and encourage students to make connections between previously learned material and new material.<sup>81</sup> Some learning theorists emphasize structuring, organizing, and sequencing information to facilitate optimal processing.<sup>82</sup> Thus, in the course of a year-long clinic, the faculty has the flexibility to do just that. For example, sessions on interviewing might focus on basic interview process techniques during the first semester, while, richer more nuanced learning about narrative theory may happen in the second semester. Or, a student may have to develop a theory of the case for a written pleading or motion in the first semester, and then subsequently refine and use the case theory to prepare the case for trial. A year-long clinic offers more time to build students’ knowledge incrementally.

Learning theory suggests that students simply cannot get everything clinicians expect them to in the course of a semester.<sup>83</sup> Students should be given adequate time to learn and their experience spread out over time.<sup>84</sup> In thinking specifically about that elusive, but ever important skill of problem solving, Stefan Krieger argues that students need to develop a foundation in the doctrine underlying their cases before they can develop problem-solving schemas.<sup>85</sup> Krieger also observes:

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80. Schwartz, *supra* note 60, at 368.

81. HOW PEOPLE LEARN, *supra* note 64, at 239.

82. *Id.* at 96.

83. Kowalski, *supra* note 76, at 76-77 (summarizing Robert Haskell’s model that “use[s] current research in cognitive psychology, neurochemistry and educational theory to show that,” among other things, “students need practice, drill, and time to incubate in order to build their ability to transfer.”) (citations omitted).

84. Binder & Bergman, *supra* note 75, at 301.

85. Stefan H. Krieger, *Domain Knowledge and the Teaching of Creative Legal Problem Solving*, 11 CLINICAL L. REV. 149, 202-03 (2004) (asserting this knowledge base cannot be supplanted simply by giving students the relevant law or frontloading).



Given the cognitive demands of learning how to structure practical experience with domain knowledge, it is questionable whether students handling a particular client's case have the ability – at least initially – to engage in problem solving the legal issues and, at the same time, reflect extensively on the nonlegal context of the case.<sup>86</sup>

Krieger suggests this challenge maybe overcome by extending the clinic term beyond a semester.<sup>87</sup> “It is important to be realistic about the amount of time it takes to learn complex subject matter. ... In all domains of learning, the development of expertise occurs only with major investments of time[.]”<sup>88</sup> Given the complex nature of lawyering, a full academic year provides more time for students to acquire transferable skills.

### C. *More Time in the Clinic May Leave More Time for Reflection*

A year-long clinic allows more time for reflection. “Adults’ capacity for self-direction is dependent on their ability to be self-aware and to reflect on the implications of their experiences for future action.”<sup>89</sup> Adult learning theorists posit that learners cannot gain true value from experience if not given the opportunity to reflect on lessons and assimilate them into knowledge for future use.<sup>90</sup> A key advantage—and central tenet—of learning in a clinical setting, as opposed to a practice setting, is the ability to engage in guided reflection with an expert.<sup>91</sup> This reflection takes many forms including journals, rounds, conversations in individual supervision, and written self-evaluations. Reflection is necessary because students’ understandings of how and why they took, or should take, certain actions are often latent. Unless students’ decision-making theories are made explicit, they are likely to repeat mistakes.<sup>92</sup> In this way, students learn not only the immediate

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86. *Id.* at 203.

87. *Id.*

88. HOW PEOPLE LEARN, *supra* note 64, at 56-58.

89. Quigley, *supra* note 67, at 50; Kowalski, *supra* note 76, at 100-02.

90. Quigley, *supra* note 67, at 49-50

91. *Id.* at 48.

92. Brook K. Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLINICAL L. REV. 1, 20-22 (1999).

lesson about what to do in this case, but an approach to problem-solving that can be used in practice. Students also learn a model for how to learn from experience, which is important because lawyers continue to develop problem-solving skills throughout their career. In a one-semester clinic, the pressure for law students to perform legal tasks in a compressed time frame may leave less room for critical reflection during supervision.

*D. Year-Long Clinics Allow Students to Work on More Complex Cases and Law Reform Projects*

A year-long clinic makes it possible to work on more complex cases or law reform projects that typically span multiple years. There are several reasons these comprehensive matters are good for students and client communities. “A good many lawyering abilities required in the context of small cases simply do not ‘scale up’ to work on larger problems involving multiple parties, many attorneys and other legal workers, and large quantities of information.”<sup>93</sup> Scholars who favor hard cases argue that they offer more opportunities to explore strategies for dealing with the more complex, open-ended problems students will encounter in practice.<sup>94</sup> With more complex litigation and law reform advocacy, students must find creative solutions to client problems and develop more sophisticated research skills.<sup>95</sup> These matters also tend to have significance beyond individual clients, making them an effective tool to benefit client communities and for students to learn about social justice issues. Thus, if legal educators’ goal is to instill in students a moral and professional responsibility to ensure justice for all, then it is essential that there be some clinics where student can solve larger, structural problems.<sup>96</sup> It

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93. Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 388 (1995).

94. Katherine R. Kruse, *Biting Off What They Can Chew: Strategies for Involving Students in Problem-Solving Beyond Individual Client Representation*, 8 CLINICAL L. REV. 405, 410 (2002).

95. Paul D. Reingold, *Why Hard Cases Make Good (Clinical) Law*, 2 CLINICAL L. REV. 545, 553-55 (1996).

96. Kruse, *supra* note 94, at 433; Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 356 (2008) (arguing that clinical legal education’s focus on individual client representation, rather than collective mobilization, does not adequately serve poor communities).

is not feasible for students to work on these cases in one semester. For these reasons, clinicians who favor working on these large cases recommend increasing the commitment to a full year.<sup>97</sup>

Even in clinics that do a mix of individual representation and law reform,<sup>98</sup> it is helpful to have a second semester. Clinicians have noted that students' ability to engage in meaningful big picture problem solving increases once they have some experience with direct representation.<sup>99</sup> For example, Kate Kruse describes an experience where students were confused and frustrated when they started their projects right away without much individual casework under their belt.<sup>100</sup> In contrast, in another academic year, when students engaged in their problem solving projects after completing one clinical semester, they were better equipped to handle the representation.<sup>101</sup>

In my own clinic, the CYLC, where we perform both individual representation and law reform work on behalf of youth in foster care, the systemic work typically gains more traction in the second semester. It is difficult for students to master their individual representation, while at the same time identifying and strategizing about systemic issues. By the second semester, students typically have enough experience as a group to identify problems impacting many clients, and comment on how they would change statutes, administrative rules, or agency practices. Many of our "know your rights" presentations to foster youth and social workers happen in the second semester when students have both the knowledge and practice experience to do useful presentations. We consistently get feedback from these constituents about how valuable this work is, providing youth a better understanding of their rights

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97. Maurer, *supra* note 55, at 895-96; Findley, *supra* note 10, at 268.

98. Jayashri Srikantiah & Jennifer Lee Koh, *Teaching Individual Representation Alongside Institutional Advocacy: Pedagogical Implications of a Combined Advocacy Clinic*, 16 CLINICAL L. REV. 451, 455-59 (2010) (describing the benefits of a combined advocacy model where students represent individual clients in small cases while simultaneously advocating for broader social change).

99. Blasi, *supra* note 93, at 386-87; Kruse, *supra* note 94, at 437.

100. Kruse, *supra* note 94, at 437.

101. *Id.* at 435.

and options, while giving social workers information to better advocate for the children under their supervision. Even when there is no specific timeline on policy projects, students organically raise systemic issues, make richer contributions to strategic discussion, and produce better law reform work in the second semester.

*E. Year-Long Clinics Promote Strong Attorney-Client Relationships*

Having the same student-attorney for the year fosters strong attorney-client relationships. Responsibility to clients, coupled with the increase in accountability for one's actions as a student-lawyer, is at the center of most clinical experiences.<sup>102</sup> Central to client-centeredness is the idea that "the lawyer must work with care to build a relationship with the client that will help sustain the client as he or she deals with questions, sometimes very painful questions, that must be resolved in handling the legal matter."<sup>103</sup> Lawyers work hard to earn their client's trust and build connections with their clients. This is essential for the attorney to understand the client's perspective, make the client feel comfortable enough to reveal information relevant to the case, and develop a theory of the case that is faithful to the client's own understanding of herself and the problem. Developing an attorney-client relationship is complicated; requiring attention to and processing of important information about the client's feelings, goals and values, in addition to facts relevant to the case.<sup>104</sup> Building connections with the client is a continual process that "goes on at every stage and in every aspect of the lawyer's interaction with [the] client."<sup>105</sup> It takes time, and genuine trust usually only develops after the client has an opportunity to see the attorney in action working on the client's behalf.<sup>106</sup> Therefore, constant turnover

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102. CARNEGIE REPORT, *supra* note 1, at 121.

103. STEPHEN ELLMAN ET AL., *LAWYERS AND CLIENTS: CRITICAL ISSUES IN INTERVIEWING AND COUNSELING* 6 (West Group 2009).

104. *Id.* at 19, 23.

105. Robert Dinerstein et al., *Connection, Capacity and Morality in Lawyer-Client Relationships: Dialogues and Commentary*, 10 *CLINICAL L. REV.* 755, 778 (2004).

106. Robert Dinerstein et al., *Legal Interviewing and Counseling: An Introduction*, 10 *CLINICAL L. REV.* 281, 290 (2003) [hereinafter Dinerstein,

of students makes it harder to win the client's trust.<sup>107</sup> The problem is exacerbated when dealing with particularly vulnerable client populations, such as youth in the foster care system.<sup>108</sup> Just as one student is able to make a solid connection, the semester ends and the process must begin again with a new student.

Client counseling—helping clients to identify, evaluate, and chose among competing choices for resolving problems—typically does not happen in a single moment, but is a continual process during which the client and lawyer must constantly integrate and respond to new information.

[Lawyers] hear the accounts of clients through their knowledge of the law and the possibilities and limitations it presents, yet seek to shape the advice they give to clients in terms of the clients' own understanding of themselves, their relationships with others and the world and the clients'

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*Legal Interviewing*].

107. Babcock, *supra* note 54, at 40.

108. When dealing with certain client groups, it may take even longer to develop trust and obtain the information that leads to effective client counseling and advocacy. Youth in the foster care system are one such example. In response to the listserv inquiry, I interviewed Jane Spinak, Director the Child Advocacy Clinic at Columbia Law School, which represents youth aging out of the foster care system. According to her, having the clinic last two semesters is essential to effectively serve this population. She explains that the complexities of the client's lives make it difficult to resolve their issues quickly. Young people take a long time to engage, and once they do, they start revealing more issues that need to be addressed. Over the course of nine months, it is actually possible to accomplish some of their goals and "we can't switch interns on them." Interview with Jane Spinak, Edward Ross Aranow Clinical Prof. of Law, Columbia Sch. of Law (Dec. 13, 2010). I have had a similar experience dealing with the same client population in the CYLC. There may be characteristics that are unique to adolescents, particularly those traumatized in their families and the foster care system, that make it more challenging to build connections. *See, e.g.,* Laura Cohen & Randi Mandelbaum, *Kids Will be Kids: Creating a Framework for Interviewing and Counseling Adolescent Clients*, 79 *TEMPLE L. REV.* 357 (2006) (drawing on research on adolescent development to identify strategies for interviewing and counseling adolescent clients). There might be other client populations where it is similarly challenging to provide effective representation if the student-lawyer changes every three months.

evolving desires about what they want.<sup>109</sup>

The lawyer must recognize that the client owns the problem and its solution, understand the client's motivations, develop a case theory with the client, and counsel the client in a way that allows the client to make the decisions.<sup>110</sup> In order for a client to truly "own" the problem, he or she must understand the legal and non-legal implications of every decision.<sup>111</sup> This requires that the lawyer move to exploring solutions only after taking the time to thoroughly understand the client's goals and life situation. Then the lawyer should take time to explain the possibilities to the client so that the client can make the decision that is right for himself or herself. Year-long clinics offer the time necessary to engage in this counseling process.

Having the same student for the entire year also leads to a more efficient handling of the client's case. At the beginning of the semester, students frequently report feeling overwhelmed by the very new experience of having a real client with legal problems. It takes them several weeks to understand the facts and the legal context, and to feel comfortable doing even simple tasks like calling a social worker. Students typically begin by reviewing the client's files. Their first interactions with the client often involve re-soliciting facts a previous student already gathered. Although legal research may have been done by a prior student, the new student often has to repeat the same research to truly understand the law. Every time a case changes students, the client loses precious time while the new student gets sufficiently up to speed to take the next step on the case.

*F. Clinical Faculty May Have More Time for Scholarship, Other Courses, and Contributions to the Law School and Community*

The more measured pace of a full-year clinic may reduce burnout among clinicians and allow clinical faculty to produce scholarship, participate in faculty governance, and make other contributions to the law school and community. While finding

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109. Dinerstein, *Legal Interviewing*, *supra* note 106, at 290.

110. See generally DAVID A. BINDER & SUSAN C. PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT CENTERED APPROACH* (1977).

111. Adrienne Jennings Lockie, *Encouraging Reflection on and Involving Students in the Decision to Begin Representation*, 16 *CLINICAL L. REV.* 357, 373 (2010).

time to write is a real challenge for those teaching a full-year clinic, it may be possible to regularly carve out small blocks of times to write. There may also be more opportunities to reflect on both clinical teaching and substantive issues, which may inspire an article. As clinical faculty gain equality within the legal academy, the less frenzied pace of a full-year clinic may allow time to serve on faculty committees, participate in faculty talks, and be a more engaged member of the faculty. Clinical faculty may also have more opportunities to participate in the advocacy community and serve on local, statewide and national committees, and boards of organizations. As a result of this work, clinicians may produce legal work product (e.g., reports, bench books, practitioner manuals, legislation and rules) or the advocacy may become the subject of a law review article. With one foot in practice and the other in the academy, clinicians are able to bring unique expertise to scholarly work. In a one-semester clinic, clinicians may have less time to do community work, or the clinic caseload may not lend itself to wider community involvement.

#### *G. Year-Long Clinics May Enhance Institutional Reputation*

There are several other institutional reasons to offer some year-long clinical options. As discussed in Part III., Section D., more complex litigation and legislative or policy advocacy aimed at achieving systemic changes typically span more than a semester, and are more feasible when students commit to the clinic for an entire academic year. From a public relations perspective, these tend to be more “glamorous” cases that garner headlines and public attention.<sup>112</sup> These cases provide

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112. See, e.g., Carol Marbin Miller, *Florida Supreme Court Limits 'Degrading' Shackles for Juveniles*, THE MIAMI HERALD, Dec. 17, 2009, available at [http://www.njdc.info/pdf/fl\\_miami\\_herald\\_12.17.09.pdf](http://www.njdc.info/pdf/fl_miami_herald_12.17.09.pdf) (exemplifying the University of Miami CYLC's role in the Florida Supreme Court's decision to restrict the use of restraints on juveniles during court hearings); Tracey Kaplan, *Group Seeks Initiative to Reform California's Three Strikes Law*, MERCURY NEWS June 14, 2011, available at [http://www.mercurynews.com/news/ci\\_18273887](http://www.mercurynews.com/news/ci_18273887) (exemplifying Stanford Law School's Three Strikes Project's efforts to place an initiative on the November 2012 ballot to reform California's Three Strikes Law, the harshest such sentencing law in the nation); Elisabeth Malkin, *Guatemala to Restore Legacy of a President the U.S. Help Depose*, N.Y. TIMES, May 23, 2011, at A6, available at <http://www.nytimes.com/2011/05/24/world/americas>

compelling examples that schools can use for student recruiting and alumni development.<sup>113</sup> In addition, providing such a critical service to the community enhances the law school's reputation among practicing attorneys, judges and the wider community.<sup>114</sup>

#### IV. ADVANTAGES OF ONE-SEMESTER CLINICS

##### A. *More Students Can Take Clinics*

The most compelling reason to offer clinics for one semester is to increase the number of students that can take clinics. For some clinicians and law schools, the imperative to offer clinical opportunities to as many students as possible cannot justify any perceived or real benefits that might come from offering longer clinics to fewer students.<sup>115</sup> In order to competently handle cases and effectively supervise students, clinic classes must be small. The average class size for live-client clinics is eight to eleven students, while the most common student:teacher ratio is 8:1.<sup>116</sup> By moving to a one-semester model, a clinic can double

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/24guatemala.html?ref=world (exemplifying American University International Human Rights Clinic's case before the Inter-American Court on Human Rights, *Juan Jacobo Arbenz Guzman v. Guatemala*, and after five years, the case resulted in a settlement between the government of Guatemala and the Arbenz family).

113. Maurer, *supra* note 55, at 892 (noting that the big cases that generate excitement in the law school and legal community enhance the law school's reputation and are typically highlighted by recruiters and fundraisers).

114. Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 *FORDHAM L. REV.* 2415, 2420 (1999) (stating public interest work enhances the reputation of the attorney providing the service and the legal profession).

115. Telephone Interview with Douglas Frenkel, Morris M. Shuster Practice Prof. of Law, Univ. of Pa. Law Sch. (Dec. 13, 2011); Email from Michele Gilman, Dir. of Civil Advocacy Clinic, Univ. of Baltimore Sch. of Law to author (Dec. 9, 2010, 11:09 AM) (on file with the John Marshall Law Journal); Email from Ann Juergens, Co-Dir. of Clinics, William Mitchell Coll. of Law, to Scott Stevenson & author (Dec. 9, 2010, 3:03 PM) (on file with the John Marshall Law Journal).

116. Santacroce & Kuehn, *supra* note 9, at 2, 14-15, 17. The survey includes information for 410 clinics at ninety-one laws schools. *Id.* at 14. The most common structure includes eight to eleven students for every teacher, both for the classroom component and the case work component of the course. *Id.*



enrollment without investing additional resources. This is a trade off that cannot be taken lightly as schools grapple with curricular reform aimed at better preparing graduates for the practice of law.<sup>117</sup>

The recent calls for legal reform require that schools think seriously, not just about broadening the array of clinical offerings, but making these courses available to all or a majority of the student population. The Carnegie Report identifies clinics as a “key setting” for integrating all three areas of expertise law schools must teach to adequately prepare students for practice: legal analysis, lawyering skills, and professional identity.<sup>118</sup> “[T]he relative marginality of clinical training in law school is striking” when one considers the central role of supervised practice in the education of physicians, nurses, teachers and social workers.<sup>119</sup> Law schools “provide extensive direct mentorship for the small number of academic stars” who go on to become law professors, but this kind of apprenticeship in the competencies that will be central to practice is unavailable to the vast majority of students who become future lawyers.<sup>120</sup> As the Carnegie Report notes:

It is very important, then, to bring these experiences into the educational program in intentional ways. One way would be to give new emphasis to the third year as a kind of “capstone” opportunity for students to develop specialized knowledge, engage in advanced clinical training, and work with faculty and peers in serious, comprehensive reflection on their educational experience and their strategies for career and future professional growth.<sup>121</sup>

Thus, at a minimum, the Carnegie Report encourages schools to consider making apprenticeship opportunities available to all third-year law students.

As law schools think about the range of options that might use apprenticeship pedagogy, they are considering making live-client clinics available to a broad cross-section of the student population. A few schools have long made experiential

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117. Schrag, *supra* note 10, at 193.

118. CARNEGIE REPORT, *supra* note 1, at 121.

119. *Id.* at 24.

120. *Id.* at 95.

121. *Id.* at 195.

education mandatory.<sup>122</sup> More recently, schools have introduced, or are considering proposals for, a mandatory experiential requirement.<sup>123</sup> Even where experiential education is not mandatory, schools that have adopted major curricular reform often include expansion of clinical programs.<sup>124</sup> Offering clinics for one semester is one way to increase the number of available clinic slots. For example, at the University of New Mexico Law School, where students must take six credits of in-house clinic to graduate, the mandatory clinics are one semester to guarantee a slot for every student.<sup>125</sup> But, to offer in-house, live-client clinics to all or most students requires that law schools hire a significant number of full-time clinical faculty.<sup>126</sup>

*B. One-Semester Clinics Afford Students More Flexibility in Taking Other Classes or Getting Work Experience*

Concentrating the clinical experience to one semester leaves students flexible to meet degree requirements and pursue a range of other opportunities during their upper level years.

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122. See CITY UNIV. OF N.Y. SCH. OF LAW, CLINICS & PROGRAMS, <http://www.law.cuny.edu/clinics.html> (last visited Dec. 15, 2011) (providing clinical education “[f]or over a decade[.]”); UNIV. OF N.M. SCH. OF LAW, ABOUT THE CLINICAL PROGRAM, <http://lawschool.unm.edu/clinic/index.php> (last visited Dec. 15, 2011) (providing clinical education since 1971).

123. See, e.g., UNIV. OF CAL. – IRVINE, SCH. OF LAW, CLINICS, <http://www.law.uci.edu/clinics/index.html> (last visited Dec. 15, 2011); Katherine Mangan, *Law Schools Revamp Their Curricula to Teach Practical Skills*, THE CHRONICLE OF HIGHER EDUCATION, Mar. 4, 2011, available at <http://law.wlu.edu/deptimages/news/thirdyearchronicle.pdf> (discussing clinical education at Washington & Lee Univ. Sch. of Law). See also ALBANY LAW SCH., SCHS. REQUIRING EXPERIENTIAL COURSES, [http://www.albanylaw.edu/sub.php?navigation\\_id=1737](http://www.albanylaw.edu/sub.php?navigation_id=1737) (last visited Dec. 15, 2011) (providing a list of thirty-two law schools with mandatory experiential requirements).

124. See, e.g., *A “3D” JD: Stanford Law School Announces New Model for Legal Education*, STANFORD LAW SCH. (Nov. 28, 2006), available at <http://www.law.stanford.edu/news/pr/47/> (last visited Dec. 15, 2011).

125. UNIV. OF N.M. SCH. OF LAW, DEGREE REQUIREMENTS, REQUIRED COURSES, <http://lawschool.unm.edu/academics/programs/requirements.php> (last visited Dec. 15, 2011); UNIV. OF N.M. SCH. OF LAW, ABOUT THE CLINICAL PROGRAM, <http://lawschool.unm.edu/clinic/index.php> (last visited Dec. 15, 2011).

126. Chemerinsky, *supra* note 50, at 38.

Some students would not or cannot take a clinic that requires a year-long commitment.<sup>127</sup> Depending on the degree requirements at a school, a year-long clinic may make it difficult for students to meet their degree requirements. For example, until the class of 2013 entered the University of Miami School of Law, students were required to take thirty-six out of fifty-nine upper-level credits from a specified list of classes.<sup>128</sup> But, clinics and externships were not included on that list.<sup>129</sup> While students could meet the requirements and take a clinic or externship, it required a significant amount of planning to ensure that a student could take the clinic for the entire year and get all of the other classes required, while limiting the number of electives a student could take.<sup>130</sup>

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127. Stark, *supra* note 54, at 463 (reporting that many students have said “they probably would not have taken the [mediation] clinic” if it were longer than one semester).

128. UNIV. OF MIAMI SCH. OF LAW, DEGREE REQUIREMENTS FOR J.D. DEGREE, *available* *at* [http://www.law.miami.edu/currentstudents/degree\\_requirements/jd\\_beforeMay2012\\_requirements.php](http://www.law.miami.edu/currentstudents/degree_requirements/jd_beforeMay2012_requirements.php) (last visited Dec. 15, 2011). The University of Miami School of Law’s graduation requirements included a mandatory seventy-three credits of academic curriculum courses (first-year and upper-level courses); required thirty-six upper-level credits from specific categories; and allowed only fifteen credits to be used for clinics, externships, additional elective courses, or joint-degree courses. *Id.* The new graduation requirements have been simplified to only require “[a]t least one Ethics/Professional Responsibility course...[a]t least one skills requirement from an approved list...;” and “[a]t least two substantial writing courses....” UNIV. OF MIAMI SCH. OF LAW, DEGREE REQUIREMENTS FOR J.D. DEGREE, *available* *at* [http://www.law.miami.edu/currentstudents/degree\\_requirements/jd\\_afterMay2012\\_requirements.php](http://www.law.miami.edu/currentstudents/degree_requirements/jd_afterMay2012_requirements.php) (last visited Dec. 15, 2011).

129. *See* UNIV. OF MIAMI SCH. OF LAW, DEGREE REQUIREMENTS FOR J.D. DEGREE, *available* *at* [http://www.law.miami.edu/currentstudents/degree\\_requirements/jd\\_beforeMay2012\\_requirements.php](http://www.law.miami.edu/currentstudents/degree_requirements/jd_beforeMay2012_requirements.php) (last visited Dec. 15, 2011).

130. Several CYLC students cited the challenge of meeting these graduation requirements as an advantage to, or reason, for offering the clinic for one-semester. *See, e.g.*, E-mail from Student A, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:32 PM) (on file with the John Marshall Law Journal); E-mail from Student D, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 9, 2010, 10:58 AM) (on file with the John Marshall Law Journal); E-mail from Student A, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law

In addition, students may not be able to work outside or engage in other law school activities while in a year-long clinic. In *After the JD*, students noted that job opportunities during the summer or academic year most prepared them for law practice.<sup>131</sup> Students also value other law school activities such as moot court, trial competitions, law review, and student leadership positions that may enhance their resumes. Some CYLC students reported that the demands of a clinic are so high that it is challenging to do these other activities while participating in the clinic.<sup>132</sup> Limiting clinic to one semester makes it easier for students to pursue these outside activities during another semester when they are not participating in the clinic. In law schools that allow students to take multiple clinics,<sup>133</sup> students may want to get different clinical experiences. This is particularly true if there is also a cap on the number of clinical credits a student may take.

*C. A More Intensive One-Semester Clinic Allows Students to Focus Exclusively on Clinic*

If students in a one-semester clinic are allowed to take a full-time credit load (or a significant number of credits), students are able to focus more time on the clinic and are less likely to

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Clinics (Apr. 8, 2010, 2:32 PM) (on file with the John Marshall Law Journal).

131. Dinovitzer et al., *supra* note 34, at 79.

132. E-mail from Student B, to author (Apr. 25, 2010, 9:26 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student D, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 9, 2010, 10:58 AM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student J, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 31, 2010, 12:47 PM) (on file with the John Marshall Law Journal) (option).

133. In response to my inquiry on the clinic listserv, Adrienne Volenik, Director of the Disability Law Clinic at the University of Richmond School of Law wrote:

We have traditionally run one semester clinics, but have now added a two semester experience and are concerned that, in the abstract, students will see it as diminishing the opportunity to take a broader array of clinics as we currently have a 12 credit cap on the number of clinical credits that can be counted toward graduation.

E-mail from Adrienne Volenik, Dir. of the Disability Law Clinic, Univ. of Richmond Sch. of Law, to author (Dec. 9, 2010, 10:25 AM) (on file with the John Marshall Law Journal).

struggle with balancing all of their commitments. Most year-long clinics are offered for less than twelve credits each semester. This means that clinic students are taking other courses while working in the clinic. For example, the University of Miami Children and Youth Law Clinic is offered for four credits per semester and students are expected to spend around ten hours per week on clinic cases in addition to approximately three hours in the classroom. Clinic students must take another eight credit hours to be classified as a full-time student. When asked whether the clinic should be offered for one semester or two, a few CYLC students said the demands of the clinic made it challenging to balance other school work.<sup>134</sup> At schools where students receive significantly more credits for a semester of clinic, they do not have to take (and balance) as many other classes. Some of the clinic students at University of Miami also suggested that they would prefer to take clinic for only one semester because of how demanding it is both emotionally and in terms of workload.

*D. There is Less "Dead" Time in a One-Semester Clinic*

In response to my informal survey on the clinic listserv, some clinicians who have taught in both one-semester and year-long clinics report that they prefer the faster pace of a one-semester clinic. As Michele Gilman of the University of Baltimore

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134. As one student wrote:

I really enjoyed my clinic experience but don't know that I would have wanted to participate in the clinic for a full year. The clinic was a lot of work and demanded a lot of my time. Sometimes I felt that in order to produce good work for the clinic, I had to neglect my other classes. Also, as a 2L I was still learning how to juggle a busy schedule that included classes, the clinic, and other law school activities, so it was definitely stressful at times. Moreover, I don't think I realized how much work the clinic required going in. I do think that I was able to have a worthwhile experience and still learn a lot in one semester. If the clinic is only offered for a full year, I think the students really need to fully understand the commitment that is required and the work that they will be doing. Nevertheless, I still think it should be offered for one semester, or at least give the students the chance to choose.

E-mail from Student L, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 9:56 PM) (on file with the John Marshall Law Journal).

School of Law wrote, “[t]here is less wasted or down-time. Because we have to pack a lot of learning into 14 weeks, we hit the ground running and so do the students. In the two semester clinic, I felt some weeks were sort of lost as students dawdled over their work.”<sup>135</sup> There is a sense that the more intense pace of the one-semester clinic may boost morale, and lead to more consistent levels of engagement and productivity for faculty and students alike.<sup>136</sup>

*E. There is More Flexibility for Faculty to Take a Semester Off from Clinic to Write and Make Other Contributions to the Law School*

In response to my listserv inquiry, some clinicians noted that a one-semester clinic affords clinicians more flexibility to write legal scholarship.<sup>137</sup> Interestingly, other clinicians also cited this as an advantage of a full-year clinic.<sup>138</sup> The key difference is in how the law school structures the time for clinicians to write. A one-semester clinic affords the flexibility to switch faculty in and out of the clinic, or shut down the clinic altogether, in order to allow clinical faculty to teach other courses or write. For example, at University of New Mexico law school, where clinics are mandatory and offered for one semester,<sup>139</sup> clinical faculty rotate out of the clinic every few semesters to teach a doctrinal course while also focusing on scholarship.

There are several benefits to this approach in addition to

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135. E-mail from Michele Gilman, Dir. of Civil Advocacy Clinic, Univ. of Baltimore Sch. of Law, to author (Dec. 9, 2010, 11:09 AM) (on file with the John Marshall Law Journal).

136. Telephone Interview with Douglas Norman Frenkel, Morris M. Shuster Practice Prof. of Law, Univ. of Pa. Law Sch. (Dec. 13, 2010).

137. E-mail from David Barnhizer, to author (Dec. 10, 2010, 2:34 PM) (on file with the John Marshall Law Journal) (citing “tenure track appointments” as a reason for reducing faculty availability).

138. David F. Chavkin, *Spinning Straw into Gold: Exploring the Legacy of Bellow and Moulton*, 10 CLINICAL L. REV. 245, 258 n.14 (2003) [hereinafter Chavkin, *Gold*].

139. UNIV. OF N.M. SCH. OF LAW, DEGREE REQUIREMENTS, REQUIRED COURSES, *available* *at* <http://lawschool.unm.edu/academics/programs/requirements.php> (last visited Dec. 15, 2011) (requiring students “participate satisfactorily in at least six hours of clinical law school credit...”).

creating time. The reality is that, even though a full-year clinic might be less frenetic than a one-semester clinic, the day-to-day demands of running a law practice, supervising students, and teaching a class does not leave large blocks of time for scholarship or service to the law school. Any time that is set aside for writing might easily be usurped by the next client emergency, which has to take priority. A semester off from the clinic allows clinicians to be more productive scholars. It also means that clinicians can teach other courses, enriching the curriculum with both their expertise and perspectives grounded in practice.

*F. Both Students and Faculty May Be Relieved to End the Experience After a Semester*

In response to my inquiry on the clinic listserv, clinical faculty reported that it is refreshing to have students turn over at the end of the semester, particularly in those instances where a student is challenging to deal with or simply not working out in the clinic.<sup>140</sup> Similarly, students in the CYLC noted that having a one-semester clinic allowed students who were not as committed to the clinic to leave.<sup>141</sup> In the case of a student who is not having a positive clinic experience, it is probably beneficial to both the student and the faculty that the student is able to leave the clinic at the end of the semester.

V. REFLECTIONS ON A ONE-SEMESTER EXPERIMENT IN A CHILD ADVOCACY CLINIC

*A. The University of Miami School of Law Children & Youth Law Clinic*

Established in 1995, the CYLC is a live-client clinic at University of Miami that has traditionally operated as a year-long clinic.<sup>142</sup> The CYLC primarily represents children in foster

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140. E-mail from Michele Gilman, Dir. Civ. Advocacy Clinic, Univ. of Baltimore Sch. of Law, to author (Dec. 9, 2010, 11:09 AM) (on file with the John Marshall Law Journal).

141. *See, e.g.*, E-mail from Student F, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 5:54 PM) (on file with the John Marshall Law Journal).

142. UNIV. OF MIAMI SCH. OF LAW CHILDREN & YOUTH LAW CLINIC MANUAL 2010-2011, 1 [hereinafter CYLC MANUAL] (on file with the John

care and young adults who recently aged out of the foster care system.<sup>143</sup> Occasionally, but increasingly, the CYLC handles cases for clients who have never been in foster care, disputes involving custody of minors, or public benefits for teenagers with disabilities.<sup>144</sup> The CYLC has six goals that are included in the Clinic's handbook and discussed with students at the beginning of the academic year.<sup>145</sup> They are to: (1) "Train students in fundamental lawyering skills, with an emphasis on learning from experience[;]" (2) "Instill in students high standards of ethics and professional responsibility[;]" (3) "Provide high quality, professional and zealous representation to clients[;]" (4) "Foster students' ability to engage in self-reflection and introspective professional development[;]" (5) "Enhance students' understanding of how legal doctrine and institutions operate in individual cases[;]" and (6) "[E]mphasize the value of public service."<sup>146</sup>

Holistic representation,<sup>147</sup> client-centered lawyering,<sup>148</sup> and therapeutic jurisprudence<sup>149</sup> have been central philosophies since the CYLC's inception.<sup>150</sup> Holistic representation requires

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Marshall Law Journal).

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. See, e.g., Robin G. Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. REV. L. & SOC. CHANGE 625 (2006); Phyllis E. Bernard, *Teaching Ethical, Holistic Client Representation in Family ADR*, 47 LOY. L. REV. 163 (2001).

148. DAVID A. BINDER ET AL., *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* 3-4, 7 (Thomson West 2004). A client-centered approach to lawyering puts clients in the best position to make important decisions by having the attorney view the problem from the clients' perspectives, see the problems' diverse natures, and make the clients true partners in the resolution of their problems. *Id.*

149. David Finkelman & Thomas Grisso, *Therapeutic Jurisprudence: From Idea to Application*, in *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE* 587, 588 (David B. Wexler & Bruce J. Winnick, eds., 1996). Therapeutic jurisprudence is a theoretical model that seeks to reduce the negative consequences of law on the psychological functioning and emotional well-being of clients. *Id.*

150. See generally Bernard P. Perlmutter, *George's Story: Voice and Transformation Through the Teaching and Practice of Therapeutic*



lawyers to see their client as a whole person, rather than simply a legal issue.<sup>151</sup> It is premised on the idea that when we understand the full context of our clients' experiences, we are better able to achieve the best outcomes and contribute to the clients' overall well-being.<sup>152</sup> Under this model, the lawyer seeks to understand and address all of the client's legal, as well as non-legal, needs.<sup>153</sup> What this means for the CYLC's practice is that we try to address, with few exceptions, all of the civil legal problems faced by our clients.<sup>154</sup> For clients under

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*Jurisprudence in a Law School Child Advocacy Clinic*, 17 ST. THOMAS L. REV. 561 (2005). In his article *George's Story*, Professor Perlmutter's provides an account of the CYLC's advocacy on behalf of George C. as being typical of many of our clients. *Id.* at 565. When George was fifteen, the CYLC was appointed as his attorney *ad litem* by the Judge in his dependency case. *Id.* at 587. Over the next three years, the CYLC motioned for George's desired permanency goal, conducted legal check-ups, and appeared at the semi-annual judicial reviews required for all children in state care. *Id.* at 582-84. In addition, the CYLC filed a contempt motion against the Florida Department of Children and Families ("DCF") for failing to deliver services in the court-approved case plan. *Id.* at 586. In the course of the representation, the CYLC participated in treatment team meetings at the psychiatric facility where George was placed, as well as advocated in court for a shortened stay and humane treatment in the psychiatric facility. *Id.* at 599. The CYLC also petitioned for George's legal emancipation and early release from DCF custody and engaged in special education advocacy. *Id.* at 602-03. Ultimately, the CYLC compelled the DCF to pay for George (and other high school graduates in foster care) to participate in graduation ceremonies. *Id.* at 603. As Perlmutter writes, "our clinic was more than just [George's] law enforcer. The Clinic was his therapeutic agent, facilitating his ability to be heard by decision-makers with regard to his permanency and independent living needs." *Id.* at 594. The Clinic also worked hard to ensure that George had the information to make important decisions and empowered him to make those decisions based on his own values. *Id.* at 593-94. Our work on behalf of George typifies our aspirations with every client.

151. Steinberg, *supra* note 147, at 627-28.

152. *Id.* at 628.

153. *Id.* at 630-31.

154. The CYLC does not handle criminal matters, as our clients are appointed (and very ably represented by) our local public defender office. The CYLC may assist the public defender's office in marshalling mitigating evidence from our client's extensive foster care history, handle expungement of criminal records, or occasionally represent an adult client at arraignment on minor misdemeanor charges. In addition, the CYLC does not handle personal injury claims, but may assist the client in gathering facts and refer

eighteen, advocacy in dependency cases is the common element of our work, but we may also do special education, health and disability administrative appeals, and specialized immigration.<sup>155</sup> For those over age eighteen, the most common case we handle is administrative appeals for independent living benefits,<sup>156</sup> but we may also handle other public benefits cases, landlords-tenant or custody disputes for former foster youth.

Another important feature of the CYLC is its law reform advocacy. In its early years, the Clinic engaged in a multi-year litigation that culminated in the Florida Supreme Court issuing a procedural rule requiring pre-commitment hearings and appointment of counsel for foster children facing involuntary commitment to psychiatric facilities.<sup>157</sup> In addition, the CYLC has participated in other systemic litigation and been at the forefront of legislative advocacy relevant to youth in the foster care system. Clinic students routinely write amicus briefs, conduct “know your rights” presentations for foster youth and

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the case to a member of the private bar.

155. The CYLC’s immigration work is limited to applications for Specialized Immigration Juvenile Petitions, available to unaccompanied minors who were abused, abandoned, and neglected or with Naturalization Applications.

156. The John H. Chafee Foster Care Independence Act (“Chafee”) is a federal law that authorizes funding to states to provide services such as education, employment, financial management, housing, emotional support and connections to caring adults for young adults age eighteen to twenty-one who age out of foster care. 42 U.S.C. § 677(a) (West 2011). To implement Chafee, Florida developed a program that provides stipends and services to young adults who turn eighteen while in state custody. FLA. STAT. § 409.1451 (West 2011). The Road to Independence Program provides a stipend that equals “a 40-hour-a-week federal minimum wage job” to young adults enrolled in school full-time, while the “Aftercare support services” and “Transitional support services” provide emergency and short-term support to students based on other eligibility criteria. FLA. STAT. § 409.1451(5)(a)-(c) (West 2011).

157. *M.W. v. Davis*, 756 So. 2d 90, 109 (Fla. 2000) (directing that “Juvenile Court Rules Committee submit ... proposed rules that will set forth the procedures to be followed by the dependency court when the Department of Children and Families seeks an order committing a dependent child to a residential facility for mental health treatment.”); *In re Amendment to the Rules of Juv. Procedure*, Fla. R. Juv. P. 8.350, 842 So. 2d 763, 766 (Fla. 2003) (approving the amendment to the Rules of Juvenile Procedure regarding the placement of a child “against his or her will in a residential treatment facility.”).

social workers, and engage in local and statewide advocacy to change policies. Much of this systemic work comes to fruition in the second semester, after students become familiar with the issues in their individual cases and are better able to step back and take a look at the big picture. For example, this year, several students who conducted Medicaid waiver administrative hearings conducted trainings for foster care social workers during the second semester.

The classroom component of the clinic, which meets twice a week, reinforces the social justice mission, and central philosophies. In the fall, the class covers substantive law, lawyering skills, and ethics. Given the diverse substantive areas in which students practice, the substantive part of the class is intended to give students a general overview of the more common practice areas. As such, we always cover federal and state child welfare laws, special education, independent living, and health. We may also cover other areas, such as immigration, Social Security, or adoption, depending on the number of active cases in an area during a given semester. The skills classes cover case planning, interviewing and counseling, fact investigation, administrative hearing advocacy, trial advocacy, legal research, legal writing, and cross-cultural lawyering. Also, clinic students are required to take ethics as a co-requisite to the clinic. We sometimes devote an entire class to holistic representation and therapeutic jurisprudence.

We integrate structured case rounds into many of the classes. For example, a class on ethical responsibilities of the child's lawyer may include discussion from actual cases about ethical issues with which students are grappling. A portion of the class on substantive law relating to independent living benefits for children aging out of the foster care system includes student discussion of the relevant legal issues on some of their individual cases. We try to devote some classes entirely to case rounds, allowing students to select any cases or issues they would like to present and solicit strategic advice from their classmates. Each year we get feedback that students want more of these classes, but there is never enough time in the fall with everything else on the syllabus. In the spring, we devote many more classes to case rounds, but also typically do a few substantive classes on areas we did not get a chance to cover in the fall, and several classes on law reform and community lawyering. In addition, each student does a Continuing Legal

Education presentation on a topic of their choice, typically one in which they have become an expert.

### *B. The One-Semester Experiment*

Demand for spaces in the clinic outstrips slots each year. In the year we tried the experiment, forty-eight students ranked the Clinic first, and many more ranked it lower, in applying for the Clinic's twenty-seven slots. One group of students took the Clinic for the entire year, while two other groups took it in the fall or spring only. By offering CYLC for one semester, we were able to offer the clinic to nine more students than our usual limitation of eighteen students. We had thirteen students participate in the Clinic for a full year, five students participated in the fall, and another nine students in the spring.<sup>158</sup> On the Clinic application, we asked students whether they preferred to take the clinic for a semester or a year. Once we decided which students would be accepted into the Clinic, we assigned students to the full year or a semester. Because the majority of students said they wanted to take the clinic for a year, we could not always respect students' preference. The spring one-semester students repeated the fall version of the Clinic seminar, while the year-long group completed the version of the seminar that we usually do in the spring semester.

### *C. Lessons Learned from the One-Semester Experiment*

After the Clinic ended, students were sent an email asking whether they would take the Clinic for one semester or two if they participated in the Clinic again, and whether the Clinic should be offered for one semester or a year. The vast majority of students stated that the Clinic should continue to be offered

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158. The original plan was that nine students would take the clinic for the full year, nine would take it in the fall only, and a different nine would take the spring only. In keeping with this plan, eighteen students started the clinic in the fall. At the end of the fall semester, five students who were supposed to be fall only asked to stay on in the spring. One student who was supposed to do the clinic for the entire year asked to drop the clinic in the spring so that he could pursue international moot court and other opportunities. This means that we ended up with a total of twenty-two students during the spring semester. We agreed to this heavier supervision load because recently, we hired a staff attorney, Carolina Guacci, who assisted with supervision in the spring semester.

for an entire year.<sup>159</sup> Students commented that they need an entire year to learn the material to be able to apply it, and to

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159. Of the seventeen students who responded to the e-mail, nine students said the clinic should be a full-year, six students said there should be an option to do it either for a year or a semester, and two said it should be offered for a semester. E-mail from Student A, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:32 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student B, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 25, 2010, 9:26 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student C, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 20, 2010, 10:17 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student D, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 9, 2010, 10:58 AM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student E, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 10:26 PM) (on file with the John Marshall Law Journal) (option); E-mail from Student F, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 5:54 PM) (on file with the John Marshall Law Journal) (one-semester); E-mail from Student G, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 3:35 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student H, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:37 PM) (on file with the John Marshall Law Journal) (option); E-mail from Student I, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 31, 2010, 5:52 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student J, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 31, 2010, 12:47 PM) (on file with the John Marshall Law Journal) (option); E-mail from Student K, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 25, 2010, 11:48 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student L, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 9:56 PM) (on file with the John Marshall Law Journal) (option); E-mail from Student M, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 6:38 PM) (on file with the John Marshall Law Journal) (one-semester); E-mail from Student N, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 5:02 PM) (on file with the John Marshall Law Journal) (option); E-mail from Student O, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 4:32 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student P, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 4:21 PM) (on file with the John Marshall Law Journal) (full-year); E-mail from Student Q, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 4:03 PM) (on file with the John Marshall Law Journal) (option).

actually make a difference for their clients. For example, one student favoring a full year clinic noted:

I very strongly think that the clinic should not be a one semester course. I do not think it gives students ample time to build relationships with their clients, to see case matters to completion, or to become as familiar with the relevant laws and rules. I also think that the change in the middle of the year can be detrimental to some clients, especially those who are wary of the legal system to begin with. A year would allow students to build better relationships with their clients and allow them to feel like they have achieved more and come away from the internship with a greater sense of accomplishment.<sup>160</sup>

In addition, another student stated:

I participated in the clinic for a full school year. If given the chance, I would not have participated in the clinic for only one semester. Last year, I felt as though I spent the entire first semester learning how to be a CYLC intern, the dependency system, my clients, etc. During the second semester, I was able to use what I learned during the first semester, and grow as a lawyer. I feel that only participating for one semester would have limited that growth.<sup>161</sup>

Students who recommended that the Clinic be offered for one semester cited several reasons. First, the clinic required a significant time commitment and sometimes caused students to neglect other courses.<sup>162</sup> Second, the time commitment over the entire year may have prevented students from taking internships or participating in other law school activities.<sup>163</sup> Third, taking the clinic for eight credits for a full year made it difficult for students to meet “core” graduation requirements.<sup>164</sup> Finally, a

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160. E-mail from Student G, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 3:35 PM) (on file with the John Marshall Law Journal).

161. E-mail from Student B, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:19 PM) (on file with the John Marshall Law Journal).

162. E-mail from Student M, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 6:38 PM) (on file with the John Marshall Law Journal).

163. *Id.*

164. *See, e.g.*, E-mail from Student A, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:32 PM) (on file with

few' students mentioned that the Clinic was emotionally draining.<sup>165</sup> As one student noted:

Based on my experience in the clinic (which was unique with the clients I had) I honestly would say that the clinic should be a semester long experience. The thing about it being a one semester class is that the frustration levels that I experienced and I'm aware others experienced is less, during a semester. Because of the high level of work that the clinic requires, it prevents working at a job or even devoting extra time to class if needed. I think because obviously our clients are our top priority, it means everything else takes a back burner, resulting in neglecting of school work. While it isn't difficult to take a light case load one semester, it is hard to take two semesters worth, and I think, watching people who did the entire year, some of them have a hard time making sure they get all the requirements in, especially if they want to do litigation skills.<sup>166</sup>

Several students noted that they preferred the year-long clinic, but believed there should be a one-semester option for all of these reasons.<sup>167</sup>

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the John Marshall Law Journal); E-mail from Student C, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 20, 2010, 10:17 PM) (on file with the John Marshall Law Journal).

165. *See, e.g.*, E-mail from Student E, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 10:26 PM) (on file with the John Marshall Law Journal); E-mail from Student M, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 6:38 PM) (on file with the John Marshall Law Journal).

166. E-mail from Student M, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 6:38 PM) (on file with the John Marshall Law Journal).

167. E-mail from Student E, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 10:26 PM) (on file with the John Marshall Law Journal); E-mail from Student H, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Apr. 8, 2010, 2:37 PM) (on file with the John Marshall Law Journal); E-mail from Student J, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 31, 2010, 12:47 PM) (on file with the John Marshall Law Journal); E-mail from student L, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 9:56 PM) (on file with the John Marshall Law Journal); E-mail from Student N, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 5:02 PM) (on file with the John Marshall Law Journal); E-mail from Student Q, to Maria Cruz, Faculty Assistant, Univ. of Miami, Sch. of Law Clinics (Mar. 24, 2010, 4:03 PM) (on

We abandoned the one-semester experiment, concluding that it had not worked. Several of our fall one-semester students asked to stay on in the spring, and we agreed that it would be good for them and the clients. This seemed to confirm our sense that the year was preferable. There were also logistical challenges. When we added the new one-semester students in the spring, we split into two seminar sections. I taught the year-long seminar, but some of the students I supervised were one-semester spring students who were in the seminar class taught by Professor Perlmutter. In supervising those students, there was often a disconnect because I did not have the benefit of participating in their seminar discussion. They also never truly integrated with the year-long students so we lost some of the peer-to-peer learning that is such an important part of clinic.

Once the spring semester ended, I concluded, like several of my students, that there are very good reasons to continue offering the CYLC for a full year.<sup>168</sup> First, there was in fact a tremendous amount of student growth over the course of a year that simply would not have been possible in just a semester. Students just began to get their stride at the end of the first semester. In the second semester, I had multiple moments where I burst with pride as the same timid student who constantly came to me seeking the “right” answer transforms into a lawyer navigating the multiple dimensions of the representation.

My second reason for valuing the full year model is the potential negative impact on clients, particularly our younger clients. Our clients are children and young adults involved with the child welfare system who have learned to mistrust adults after years of disappointment by the parents, foster parents, and social workers responsible for their care. As a result of our holistic approach, we represent them in multiple legal matters typically over several years. It is difficult enough that our child-clients are introduced to a new student-attorney once a year; it would be very difficult to expect them to share their story with a new person every three months. The turnover on the cases that

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file with the John Marshall Law Journal).

168. Once the semester ended and I had a chance to catch my breath, I realized the net result from the experiment was a spring semester that felt intense and unwieldy. After reflection on the lessons learned from the experience, the idea for this Article was conceived.



received a new student in the spring also slowed progress. As the new student got up to speed on the law and facts, additional time was needed to build a relationship not just with the client, but with the many third parties involved in the client's life.

The third reason a full-year model for the clinic is valuable is because the Clinic would not be able to do the same level of law reform work that it has traditionally done. The students who participated in the Clinic for only one semester could barely master the facts, law, and skills necessary for their individual representation. Even if we were able to include some "know your rights presentations" or more manageable projects, it would be difficult for a student to handle their individual cases, and do legislative or administrative advocacy at the same time.

Although I prefer the year-long model for these reasons, I also realized it might be possible to design an effective one-semester version of my child advocacy clinic. The key is that I could not simply expect to cram the same clinic into one semester, but must engage in a thoughtful redesign process to make difficult choices about how to provide students a rich, yet scaled back, experience. The next section examines how clinic goals and other design elements might be restricted for a one-semester clinic, and concludes with a re-imagined version of the CYLC.

#### V. CONSIDERATIONS FOR DESIGN & PEDAGOGY IN A ONE-SEMESTER CLINIC

In his seminal article, *Constructing a Clinic*, Phillip provides a comprehensive inventory of considerations in designing a live-client clinic.<sup>169</sup> Schrag addresses structural issues,<sup>170</sup> case handling systems,<sup>171</sup> and the classroom component,<sup>172</sup> providing examples from his experience redesigning the Center for Applied Legal Studies clinic at Georgetown University School of Law.<sup>173</sup> Schrag identifies the duration of the clinic as a *real*

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169. Schrag, *supra* note 10, at 179-211.

170. *Id.*

171. *Id.* at 211-36.

172. *Id.* at 236-41.

173. *Id.* at 179. "In most sections of the article and in the conclusion, [Schrag] give[s] examples from [his] experience at [the Center for Applied Legal Studies clinic at Georgetown University School of Law]." *Id.*

question in clinic design, and recognizes that the tradeoffs stemming from the decision are “worthy of serious consideration” but does not go into depth about those considerations.<sup>174</sup>

### A. *Clinic Goals*

Clinical scholars have articulated many possible goals for live-client clinics.<sup>175</sup> The Association of American Law Schools on the Future of the In-House Clinic identified nine that are commonly set for live-client clinics.<sup>176</sup> First, clinics seek to “develop[] modes of planning and analysis for dealing with unstructured situations.”<sup>177</sup> Second, clinics teach students lawyering skills such as “interviewing, counseling, fact investigation,” negotiation, and litigation advocacy.<sup>178</sup> Third, clinics give students tools to “learn from experience.”<sup>179</sup> Fourth, clinics attempt to develop enhanced ethical and

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174. *Id.* at 198.

175. Compare David F. Chavkin, *Training the Ed Sparerers of Tomorrow: Integrating Health Law Theory and Practice*, 60 BROOK. L. REV. 303, 313-16 (1994) (noting six goals appear to be the most common: “develop reflective practition- ers-student attorneys...;” teach lawyering skills; “teach substantive law in context[;]” “develop enhanced professional responsibility...;” develop student personas as lawyers; and provide “legal services to unrepresented populations[;]”); with Schrag, *supra* note 10, at 179-87 (identifying, via headings, the following fifteen goals: “Responsibility[;]” “Doctrine and institutions[;]” “Service[;]” “Problem-solving[;]” “Collaboration[;]” “Cross-cultural awareness[;]” “The role of emotions[;]” “Coping with facts[;]” “Values[;]” “Ethics[;]” “Creativity[;]” “Authority[;]” “Learning to learn[;]” “Traditional skills[;]” and “Students’ goals[;]”).

176. Subcommittee on Pedagogical Goals of In-House, Live-Client Clinics, *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 511, 512-16 (1992) [hereinafter Subcommittee Report].

177. *Id.* at 512 (texted altered from original).

178. *Id.*; see also MACCRATE REPORT, *supra* note 32, 135 (identifying ten skills central to the legal profession: “problem solving (Skill § 1) and legal analysis (Skill § 2)...legal research (Skill § 3), factual investigation (Skill § 4), communication (Skill § 5), counseling (Skill § 6)...negotiation (Skill § 7)...litigation and alternative dispute resolution (Skill § 8)...Skill § 9 identifies the administrative skills necessary to organize and manage legal work effectively....Skill § 10 analyzes the skill involved in recognizing and resolving ethical dilemmas.”).

179. Subcommittee Report, *supra* note 176, at 513

professional responsibility in students.<sup>180</sup> Fifth, clinics aim to assist students in analyzing and defining their role as lawyers.<sup>181</sup> Sixth, clinicians seek to teach students how to collaborate effectively.<sup>182</sup> Seventh, clinicians attempt to impart the obligation of service for clients and teach about the impact of the legal system on the indigent.<sup>183</sup> Eighth, clinics analyze substantive law and examine the impact of doctrine and legal institutions in individual lives.<sup>184</sup> Ninth, clinics “critique[] the capacities and limitations of lawyers and the legal system.”<sup>185</sup>

As a practical matter, it is impossible to accomplish all of these goals in one semester. As Mark Aaronson notes:

Within the time frame of a semester or even a year, one has to pick and choose selectively the kinds of inquiries to be raised with students if an objective is to maintain their attention. Moreover, as a responsible attorney, a clinical teacher has to give priority to the interests of the clients over student learning to the extent that the two may conflict. The bottom line is that live-client clinical settings, student educational goals often have to be pared back. The depth of exploration for which one might hope may not be feasible.<sup>186</sup>

By trying to do too much, clinical teachers decrease the likelihood that students will become proficient in any single goal.<sup>187</sup> Research on cognitive functioning shows that there are limits on how much students can learn at one time.<sup>188</sup> Research also suggests that transfer—the ability to use information learned in one context in another context—is diminished in a

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180. *Id.* at 513-14.

181. *Id.* at 514-15.

182. *Id.* at 515.

183. *Id.*; see also John C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1462 (1998) (arguing social justice should be the central mission of clinical education); Quigley, *supra* note 67, at 38 (“advocating that a complete legal education ... should include lessons of social justice.”).

184. Subcommittee Report, *supra* note 176, at 515-16.

185. *Id.* at 516 (text altered from original).

186. Mark Neal Aaronson, *We Ask You to Consider: Learning About Practical Judgment in Lawyering*, 4 CLINICAL L. REV. 247, 286 (1998).

187. Krieger, *supra* note 85, at 196-99 (suggesting Mark Aronson’s focus on four organizing themes in his clinic, in addition to traditional lawyering skills, is too much for one semester).

188. *Id.* at 194, 197-98.

setting where too little time is devoted to too many tasks.<sup>189</sup>

[T]he repeated opportunities for practice in varied contexts that transfer seems to require and the complexity of such lawyering tasks as counseling, negotiation, mediation, and advocacy mean that clinicians are unlikely to have nearly enough teaching time to promote the transfer of all the strategies and skills relating to such tasks.<sup>190</sup>

Students may end up learning “a little about a lot,” as opposed to gaining a deeper experience that is transferrable once they begin practice.<sup>191</sup> Accordingly, it is important that clinicians prioritize the learning goals in a one-semester clinic.

In *Teaching with Purpose*, Roy Stuckey suggests that clinicians should focus on those educational goals that can be achieved more “effectively and efficiently using experiential education than through other methods of instruction....”<sup>192</sup> While Stuckey contends that all clinics should do this, regardless of their duration, his proposal suggests a useful way to prioritize in a one-semester clinic.<sup>193</sup> Stuckey identifies the four goals best taught through experiential education as helping students to: (1) “adjust to their roles as professionals[;]” (2) “become better legal problem-solvers[;]” (3) “develop interpersonal and professional skills[;]” and (4) “learn how to learn from experience.”<sup>194</sup> He notes that the key feature distinguishing live-client clinics from other experiential opportunities is the students’ responsibility to clients and accountability for their actions.<sup>195</sup> Thus, due to the limited time available in a single semester, it makes sense to focus on the lessons that can be uniquely taught in a live-client clinic.

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189. Binder & Bergman, *supra* note 75, at 205.

190. *Id.*

191. *Id.*

192. Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses*, 13 CLINICAL L. REV. 807, 814 (2007); see also Binder & Bergman, *supra* note 75, at 205 (suggesting that another way to prioritize might be to ask questions such as “[w]hat are the important and complex problems that commonly confront lawyers as to which my students are unlikely to receive adequate training once they enter law practice?”).

193. Stuckey, *supra* note 192, at 814.

194. *Id.* at 815-24.

195. *Id.* at 830-31.

In addition, some of the other goals often identified by clinicians are also taught in other types of courses in the legal curriculum.<sup>196</sup> For example, students may learn substantive law relevant to the clinic's practice area in a doctrinal course or technical aspects of trial skills in a simulation based course.<sup>197</sup> To carry out our representation in a live-client clinic, clinicians may have to teach students substantive law, or skills that might not be central to the clinic's particular type of representation. Rather than doing this in class, these skills could be taught as efficiently as possible through the use of reference materials, student manuals, and well-organized office systems.<sup>198</sup> "If we can help students process the legal work efficiently, we will have more time to help them learn the really important lessons that supervised practice can teach."<sup>199</sup> But, there is no right answer as to how to prioritize. The point is that clinicians should recognize that it cannot all be done in one semester, and therefore need to be self-conscious about clinical objectives.

Explaining the goals to students and allowing them to identify personal goals will increase the likelihood that students achieve those goals by the end of the semester.<sup>200</sup> According to adult learning theory, students generally learn more effectively when they understand what they are supposed to be learning and how it will help them achieve personal goals.<sup>201</sup>

Rather than "hiding the ball," telling students what the objectives of the course are and how the assignment at hand furthers those objectives allows them to recognize that they are not wasting their time or energy, but are engaging in exactly what they enrolled in law school to do—to learn the skills and knowledge necessary to enter the legal profession.<sup>202</sup>

Once students understand the relevance of a task, they are more likely to fully engage in the assignment.<sup>203</sup> Because adults view themselves as self-determining, it is also important to allow

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196. *Id.* at 819.

197. *Id.*

198. *Id.* at 832.

199. *Id.*

200. BEST PRACTICES, *supra* note 2, at 168.

201. THE ADULT LEARNER, *supra* note 65, at 64-65.

202 Anderson, *supra* note 74, at 144.

203. *Id.*

students to select the professional goals they most want to accomplish. The professor should then select cases and construct the clinical experience to emphasize the goals chosen by the student. By clearly articulating goals and allowing students to prioritize those goals most relevant to them, professors can help students to learn more in the course of a semester.

### B. Case Selection

In designing a one-semester clinic, faculty should be mindful that the type of cases handled in the clinic will significantly impact the kind of learning experience students have in a single semester.<sup>204</sup> Clinical scholarship has extensively covered questions related to the types of matters that best advance the goals of clinical education.<sup>205</sup> Scholars have debated the benefits of larger, more complex cases versus small cases;<sup>206</sup> clinics that handle a wide range of practice areas versus specialty clinics;<sup>207</sup> and clinics that do collective mobilization or broad social justice work versus individual case-centered practice.<sup>208</sup>

During one-semester clinics, students should have the opportunity to work on a matter from beginning to end.<sup>209</sup>

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204. Schrag, *supra* note 10, at 191; *see also* Reingold, *supra* note 95, at 545 (noting that “[t]he choice of specialty clinic versus general clinic is an important one because a clinic’s structure cannot help but determine what values and skills it will teach.”).

205. *See, e.g.*, Pamela N. Phan, *Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice*, 8 YALE HUM. RTS. & DEV. L.J. 117 (2005); Stephen Wizner & Jane Aiken, *Teaching & Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997 (2004); Frances Gall Hill, *Clinical Education and The “Best Interest” Representation of Children in Custody Disputes: Challenges and Opportunities in Lawyering and Pedagogy*, 73 IND. L.J. 605 (1998).

206. Compare Ian Weinstein, *Teaching Reflective Lawyering in a Small Case Litigation Clinic: A Love Letter to My Clinic*, 13 CLINICAL L. REV. 573, 586 (2006) (arguing “[s]tudents can gain tremendous insights from working on complex cases[.]”); *with* Kruse, *supra* note 94, at 413 (asserting simple cases provide matters the students are “capable of handling on their own.”).

207. *See, e.g.*, Reingold, *supra* note 95, at 545-46.

208. *See, e.g.*, Srikantiah & Koh, *supra* note 98, at 459.

209. *See* Reingold, *supra* note 95, at 548-49.

Domestic violence, landlord-tenant, and certain public benefits administrative proceedings are examples of cases that can be completed in a semester, as well as certain types of transactional matters. As discussed in Part III, the feedback students get from seeing a matter to its conclusion, or some critical milestone, is crucial to the learning process. Cases or projects that extend over multiple semesters may also undermine student autonomy. One of the widely accepted pedagogies in clinical education is that students assume full responsibility for every aspect of their cases.<sup>210</sup> If the case continues beyond the clinic term, new students inherit and are either influenced by or forced to adopt client information and legal strategies developed by their predecessors.<sup>211</sup> In addition, continuity of representation is necessarily provided by professors who supervise the case during breaks and provides background information to get new students up to speed.<sup>212</sup> Despite this necessity to keep the clinic running during these time periods, some argue that this gives the clinical faculty members too active a role with the client and in case strategy.<sup>213</sup>

Small cases, usually involving an individual client for whom the outcome has enormous personal significance, are a particularly valuable vehicle for students to acquire the skills

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210. Kruse, *supra* note 93, at 407-08 (arguing “[f]or pedagogical reasons, many clinics choose to limit their students’ work to a few carefully chosen cases that are small and manageable enough to give the students full ownership and control over the cases, to develop the primary relationship with the client, and to see the cases from beginning to end.”). The primary role assumed by the student capitalizes on the adult learners need for self-direction and ensures that law students are responsible for planning and executing their clinical experience. Bloch, *supra* note 59, at 339-40. Students are forced to develop the attorney-client relationship themselves; thereby figuring out how they will respond to the multitude of emotional and interpersonal complexities inherent in that relationship. *Id.*

211. Naomi R. Cahn & Norman G. Schneider, *The Next Best Thing: Transferred Clients in a Legal Clinic*, 36 CATH. U. L. REV. 367, 390 (1987)

212. *Id.* at 393-94.

213. Chavkin, *Gold*, *supra* note 138, at 263; *see also* David F. Chavkin, *Am I My Client’s Lawyer?: Role Definition And The Clinical Supervisor*, 51 SMU L. REV. 1507, 1535-36 (1998) (asserting clinical “educational goals will be most advanced if clinical supervisors take advantage of the flexibility of most student practice rules to avoid establishing a co-counsel relationship except in extreme cases.”).

associated with developing an attorney-client relationship.<sup>214</sup> As discussed, if clinicians seek to prioritize those learning goals uniquely suited to a live-client clinic, it makes sense to emphasize the opportunities for client interaction as these are unlikely to be available elsewhere in the curriculum.<sup>215</sup> Small cases are also appropriate in one-semester clinics because the clinical professor is more likely to understand the issues and range of possible solutions, thus providing more effective supervision.<sup>216</sup> An attempt to do larger, more complex cases in a one-semester clinic means that the supervisor may have to devote precious time to understanding and researching the issues herself.

Another important consideration in selecting cases is whether the clinic should focus on one practice area or serve a wide range of client needs. If you have only one semester to accomplish a myriad of objectives, there are compelling reasons to specialize. Specialization increases the likelihood that students will become knowledgeable about a practice area by the end of the semester.<sup>217</sup> Because practice area clinics require knowledge of a clearly defined set of substantive and procedural rules, the experience is more predictable and students gain a deeper understanding of the relevant law. A clinical supervisor, who is also an expert in the area, can provide helpful guidance.<sup>218</sup> Learning through case rounds and class discussion is also enhanced as other students in the class are themselves becoming experts in the field. For example, if two students each have a case of the same type, both are able to learn the law and hone their legal skills through repetition.<sup>219</sup> This expertise empowers students by giving them concrete experience on what becoming an expert requires and feels like. In addition, by

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214. Weinstein, *supra* note 206, at 597.

215. See *supra* Part IV & accompanying text.

216. Weinstein, *supra* note 206, at 577.

217. *Id.* at 583-84 (“Much as we work to make our clients stand out as individuals with particular stories to tell, our cases move through the system in a predictable way, presenting different versions of a relatively limited set of substantive and procedural problems. That relatively small universe of problems enables most of my students to learn enough in the course of one semester clinic to begin to develop real expertise in this corner of criminal defense work.”).

218. Schrag, *supra* note 10, at 191.

219. See Kowalski, *supra* note 76, at 58.



making it easier to master the relevant substantive law, students can focus on other aspects of the representation, thereby maximizing those educational goals that can only be learned through a real-life experience.<sup>220</sup>

Although specialization may be pragmatic in a one-semester clinic, it is important to understand what is sacrificed when confining the scope of the work. Some have argued that subject matter specialization conflicts with the holistic approach.<sup>221</sup> “Holistic lawyering, or client-centered lawyering, similarly focuses on the goal of improving the overall (legal) health of the client with a focus on the expertise that a lawyer can bring to the table.”<sup>222</sup> Students working in a narrow subject matter clinic may fail to see the client as a whole person with a range of legal and other problems that are inextricably linked to the problem that is the subject of the representation.<sup>223</sup> “By contrast, general practice clinics and clinics focused on particular populations provide at least the opportunity to reinforce for students the lessons of client-centered lawyering[.]” that has become a central tenet of clinical education.<sup>224</sup> In addition, if a clinic fails to address a client’s problem holistically, the poor and marginalized client served by the clinic is unlikely to get legal services elsewhere.<sup>225</sup> In *Learning Through Service in a*

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220. Reingold, *supra* note 95, at 561.

221. See Chavkin, *Gold, supra* note 138, at 268.

222. *Id.* at 267-68 (footnote omitted).

223. Lauren Carasik, *Justice in the Balance: An Evaluation of Once Clinic’s Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission*, 16 S. CAL. L. REV. L. & SOC. JUST. 23, 82-83 (2006).

224. JoNel Newman, *Re-Conceptualizing Poverty Law Clinical Curriculum and Legal Services Practice: The Need for Generalists*, 34 FORDHAM URB. L.J. 1303, 1318 (2007); see also Chavkin, *Gold, supra* note 138, at 268. Chavkin uses “client-centered representation” to mean

recognizing the uniqueness of the individual being represented and understanding that the legal problems for which the individual is seeking assistance occur within a constellation of unique goals and needs. In this setting, the goal of ‘client-centered’ representation is to maximize the ability of the client to make informed decisions among a range of options and to develop a ‘theory of the client’ designed to maximize the likelihood (but not guarantee) that the client’s goals can be achieved.

*Id.* at 268 n.79.

225. Newman, *supra* note 224, at 1312.

*Clinical Setting*, Antoinette Sedillo Lopez argues that the social justice mission of law clinics is undermined by specialization.<sup>226</sup> She contends it is the understanding of clients' lives and the struggle to respond that helps students grasp the inequities of the legal system.<sup>227</sup> Students may also develop a "more open-minded and creative" approach to law by attempting to address a wide range of client problems.<sup>228</sup> Also, the challenge and variety of a general practice clinic may be more interesting to teachers and students alike.

If a clinic chooses to specialize by practice area, then special care should be taken to ensure that interviewing and counseling is still done "in a truly client-centered manner."<sup>229</sup> Moreover, students should identify all of the clients' legal needs and, if necessary, refer the client elsewhere for services. Ideally, the issue should be handled and given priority at another clinic within the law school to ensure seamless and coordinated provision of services. If that is not possible, then clinics should develop working relationships with other legal services providers and community organizations, and help clients short-circuit the sometimes byzantine intake process. Finally, where social justice is a mission, attention must be paid to explicitly teaching students to see the interconnectedness and complexity of the problems faced by the indigent.

### C. Credits, Caseload and Pre- or Co-Requisites

If students are taking the clinic for only one semester, there should be enough credits and required hours of work for

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226. Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 CLINICAL L. REV. 307, 316-17 (2001). In addition to leaving certain legal needs unmet, Lopez argues

[a] more subtle problem of specialization is that clinics as institutions, and we as practitioner academics, will not learn about the various and changing needs of poor people. The students will not learn to understand the full complexity and challenges of the lives of their clients and will be more likely to see them as cases and not clients. Some specializations may not expose us to people of color and their lives unless we consciously seek them out as clients.

*Id.* at 317.

227. *Id.* at 317-18.

228. Reingold, *supra* note 95, at 553.

229. Chavkin, *Gold*, *supra* note 138, at 269.

students to immerse themselves in clinical practice. Students will get a chance to do—and learn—more in a shorter space of time. Clinics vary widely in terms of the number of credit hours per semester. The most frequent number of credits given in live-client clinics is four credits per semester, but clinics range in offering anywhere from two to fourteen credits per semester.<sup>230</sup> In determining how many hours students must work to earn a specific number of credits, a common formula used by clinics, based on a Georgetown memo,<sup>231</sup> is one credit for every three and one-half hours of structured interaction time.<sup>232</sup> In a one-semester clinic, it is important to award a high enough number of credits that students can spend enough time on their cases to get a meaningful experience. A higher number of credits also means that students will need to take fewer classes to carry a full-time course load, and therefore, can easily balance a clinic with their other commitments. For example, one clinician describes the challenges of trying to accomplish all of her goals in a one-semester, six-credit federal legislation clinic.<sup>233</sup> The subsequent increase to eight and then ten credits “relieve[d] some of the academic stress” by providing more time for coverage of material in clinic classes and for students

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230. Santacroce & Kuehn, *supra* note 9, at 14. According to the survey: “The most frequent number of credits per semester for the clinic (i.e., credits for combined classroom and casework components) is 4 per semester (25.7%), followed by 3 credits/semester (24.7%), 6 credits/semester (18.2%), 5 credits/semester (10.8%), 7 credits/semester (8.4%) and 2 credits/semester (5.1%), with all other responses 3.0% or less.” *Id.* (alteration in original). Although not reflected in the CSALE data (and probably in the minority), there are some clinics that offer as many as fourteen credits in a single semester. See, e.g., N.Y. UNIV. SCH. OF LAW, EQUAL JUSTICE & CAPITAL DEFENDER CLINIC, <http://www.law.nyu.edu/academics/clinics/semester/equaljustice/index.htm> (last visited Dec. 15, 2011) (“one-semester 14-credit course”); GEORGETOWN UNIV. SCH. OF LAW, CTR. FOR APPLIED LEGAL STUDIES, <http://www.law.georgetown.edu/clinics/cals/overview.html> (last visited Dec. 15, 2011) (offering ten credits).

231. ACADEMIC CREDIT FOR CLINICAL PROGRAMS, REPORT TO THE FACULTY FROM THE CLINICS COMMITTEE (Oct. 7, 1999) (on file with the John Marshall Law Journal).

232. See, e.g., Chai Rachel Feldblum, *Appendices: The Art of Legislative Lawyering and the Six Circles Theory of Advocacy*, 34 MCGEORGE L. REV. 823, 825 (2003).

233. Feldblum, *supra* note 232, at 825.

to do their clinic work.<sup>234</sup>

Careful attention should also be paid to the student's case load (both in terms of number and case type) to ensure that students get the most out of their time in the clinic. Different types of cases may give students an opportunity to develop different skills. The University of Michigan Law School Child Advocacy Clinic, which has served as a model for child advocacy clinics across the country, is a "one semester course for seven academic credits[.]"<sup>235</sup> A typical semester caseload for a team of two students in the University of Michigan Child Advocacy Clinic includes one termination of parental rights case in which the students represent the agency, one case in which students represent parents accused of child maltreatment, and three cases in which students represent children in child protection or guardianship matters.<sup>236</sup> Thus, in the course of a semester, every student gets a range of skills and perspectives about the role of the attorney.

Many clinical programs require simulation, substantive, or other courses in advance of taking a clinic, or as a co-requisite. This sequencing may allow students to have some foundation in substantive law, trial skills, evidence, professional responsibility, or some other course deemed important, which frees up time in the clinic. The downside is that the more sequencing and co-requisites required, the more students will have to carefully plan their course schedule.<sup>237</sup> Some students may not get the opportunity to take the clinic either because of insufficient advanced planning or they were unable to get into the other required courses.<sup>238</sup>

#### *D. Beginning & Transferring Cases*

To increase the likelihood that students can work on particular aspects of a case, clinicians may consider taking cases

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234. *Id.* (quoting Professor Robert Stumberg of the Harrison Institute's review regarding "the number of credits [Federal Legislation Clinic] students are allotted for participation[.]").

235. Donald N. Duquette, *Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity*, 31 U. MICH. J. L. REF. 1, 7 (1997).

236. *Id.* at 8.

237. Engler, *supra* note 10, at 153-54.

238. *Id.*

at a specific procedural phase. While this may not be at the very beginning of the case, it may be at a point that increases the likelihood a student will gain certain experiences in a semester. For example, the CYLC is sometimes asked to handle Medicaid waiver cases from the initial application. While there are advantages to having a lawyer involved from the beginning, the initial application is essentially a paper process after which the Clinic waits anywhere from thirty to sixty days for a response. This may provide limited opportunities for students to learn legal skills. By accepting these appeals after the application is denied, it increases the likelihood that students will conduct fact investigation and a negotiation or trial before the end of the semester.

Even if cases are carefully selected to span the semester, it is inevitable that some cases will not actually be completed by the end of the semester. Transfer issues arise every time a case extends beyond the clinic term,<sup>239</sup> but may be more disruptive if the term is one semester because there are twice as many case handlers and points for disruption. Clinicians should try as much as possible to ensure continuity for the client and case; ensuring that each new student has an opportunity to significantly advance the case, and develop a meaningful relationship with the client. While documentation is always important, there is a heightened need for “strict record-keeping procedures” throughout the semester.<sup>240</sup> This can be enforced through periodic audits of clinic files.

During the transfer, it important that there be a thorough transfer memo that documents everything that happened in the case and provides a strategic plan for what should happen next.<sup>241</sup> At the same time, clinics should be mindful of students passing along the type of information that is likely to influence the new students’ opportunity to build an independent relationship with the client.<sup>242</sup> One helpful way to allow students to make this judgment might be to remind them that the client is always entitled to read his or her file, and encourage students to never include anything they would not want the client to read. In *The Next Best Thing*, Naomi Cahn and

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239. Schrag, *supra* note 10, at 235.

240. Babcock, *supra* note 54, at 40.

241. Cahn & Schneider, *supra* note 211, at 390

242. *Id.* at 380-81.

Norman Schneider recommend conveying “interpersonal and idiosyncratic details of the case which might be inappropriate for a public file memo,” to a separate memo to the supervisor.<sup>243</sup> The supervisor can then make the decision whether to share the information with the new student.<sup>244</sup>

Transfer issues also arise when dealing with law reform projects. To deal with the challenge of turnover when working on policy projects, it is important to create “feedback loops” so that a new set of students can get feedback from the community or client base to help evaluate the strategy.<sup>245</sup> In addition, there must be “a structure or method for creating institutional memory, so that the lessons learned” from one semester will be passed along to the next set of students.<sup>246</sup> Kate Kruse suggests compartmentalization where the problem is broken down into finite tasks that students can accomplish in the course of a semester.<sup>247</sup> Each group of clinic students is responsible for completing a discrete phase of a longer project.<sup>248</sup> At the same time, Kruse cautions that to make the projects meaningful, students “must understand how their individual work fits into the larger project, and have a stake and a say in how the goals of the larger project evolve over time.”<sup>249</sup> Each set of students should have a clear sense of the goals, the process that came before, and input in the project after they leave.

Faculty and former clinic students may be the constant in the attorney-client relationship. At the outset, it is important to explain to the client how the clinic functions and that there will be a new student each semester. In *Developing a Child Advocacy Law Clinic*, Donald Duquette acknowledges that “certain children would benefit from having the same attorney throughout the” duration of a dependency case.<sup>250</sup> But, Duquette defends the one-semester model because he “believe[s] that the careful and thorough representation that the Clinic is able to provide outweighs any possible detriment to the

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243. *Id.* at 392.

244. *Id.*

245. Kruse, *supra* note 94, at 432.

246. *Id.*

247. *Id.* at 434.

248. *Id.* at 435.

249. *Id.* at 436.

250. Duquette, *supra* note 235, at 15

child.”<sup>251</sup> He emphasizes that continuity is provided because the same faculty member generally follows a case from beginning to end, and great care is taken to transfer cases from one student team to the next. Continuity can also be achieved through former clinic students. For example, 51.7 % of clinics responding to the *Center for the Study of Applied Legal Education 2007-2008 Survey* allow some students to stay on beyond the mandatory clinic term.<sup>252</sup> As in the CYLC, these students can act as mentors for other students,<sup>253</sup> project leaders,<sup>254</sup> or they can simply continue the representation on certain cases.<sup>255</sup> Some clinics also adopt a staggered enrollment approach. For example, in the Human Rights Clinic at Willamette University College of Law, students take the clinic for four credits in one semester, and then about 50% of them elect to take “advanced clinic” in a second semester while a new group of students are taking the clinic for the first time.<sup>256</sup>

### E. Class Room Component

An orientation or “boot camp” is one way to get an early, running start in a one-semester clinic.<sup>257</sup> Some clinicians choose to front load substantive law and procedure in that time, while others do a mix of substance and skills.<sup>258</sup> Either option

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251. *Id.*

252. Santacrose & Kuehn, *supra* note 9, at 14.

253. Leong, *supra* note 58, at 98.

254. Andrea M. Seielstad, *Community Building as a Means of Teaching Creative, Cooperative, and Complex Problem Solving in Clinical Legal Education*, 8 *Clinical L. Rev.* 445, 501-02 (2002).

255. Babcock, *supra* note 54, at 40.

256. E-mail from Gwynne Skinner, Assistant Prof., Int'l Human Rights Clinic, Willamette Univ. Coll. of Law to author (Dec. 9, 2010, 11:50 AM) (on file with the John Marshall Law Journal).

257. Feldblum, *supra* note 232, at 825 (discussing the Federal Legislative Clinic “boot camp” over three afternoons at the beginning of the semester to learn “the basics of Congressional process and procedure.”).

258. Compare Duquette, *supra* note 235, at 8, 22 (noting that his class meets three times per week at the beginning of the semester, and twice during later weeks; students are not assigned cases during the first week of the semester), with Schrag, *supra* note 10, at 238 (noting that “supervisors might want to consider writing a syllabus that tracks...students' use of those skills, on average, in the clinic's cases. Therefore interviewing might be the subject of the first class or two....”).

allows students to get some grounding in the clinic's practice area before starting actual client work. Frontloading can also be done after the semester begins by holding more seminar classes in the beginning of the semester, as opposed to later in the semester.

Planning the syllabus for a one-semester class requires difficult choices about what to include. The topics chosen for seminar should be dictated by the goals set for the course. Every class should further one of the learning goals for the course; otherwise, the topic may be more appropriately addressed in individual supervision or through reference material. The syllabus should also be dynamic, responding to what is happening in actual cases, so that students can make connections between the work and class discussion.<sup>259</sup> With a year-long clinic, the syllabus is generally followed. Even if an area is not directly relevant to a student when it is taught, the student more than likely will have a need for the topic in the course of the year. The readings provide references that the students can refer back to when they actually encounter the issue in future cases. One-semester clinics do not have that luxury; therefore, classes need to be directly relevant to the students' learning goals and actual case work.

Another way to meet learning goals and provide consistency in what students are learning in a one-semester clinic is to create exercises for the entire class. One of the advantages of a year-long clinic is that students may get to do more lawyering tasks, and even when students are working on different types of cases, they all gain certain lawyering experiences by the end of the year. To ensure that students have consistent opportunities to learn certain aspects of lawyering, the clinical professor can assign exercises based on clinic case.<sup>260</sup> For example, clinicians can create a problem based on actual cases, and have students write legal memos, do a mock interview,<sup>261</sup> draft a complaint, or

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259. Kimberly E. O'Leary, *Clinical Law Offices and Local Social Justice Strategies: Case Selection and Quality Assessment as an Integral Part of the Social Justice Agenda of Clinics*, 11 CLINICAL L. REV. 335, 362 (2005) (describing how team teaching allows for changes in the syllabus when case priorities change).

260. Babcock, *supra* note 54, at 30, 54.

261. Kowalski, *supra* note 76, at 98.



a motion.<sup>262</sup>

*F. Reconstructing a One-Semester Child Advocacy Clinic*

The goals for the re-imagined one-semester CYLC are for students to develop interpersonal skills for the attorney-client and other professional relationships, solve legal problems, learn how to learn from experience, and understand how legal doctrine and institutions impact the lives of poor people. I chose these goals because they form the core of what can reasonably and uniquely be achieved during a semester in a live-client clinic. By focusing on these goals, I do not expect that my students will know everything they need to know to practice law. But, I hope my students will have a solid introduction to their role as attorneys and models for future professional growth.<sup>263</sup>

In addition to the general goals for all CYLC students, I would like students to determine their own strengths and weaknesses, and identify strategies to achieve their learning goals. To tailor the experience to students' individualized objectives for learning, I will use learning contracts.<sup>264</sup> While we have used a standardized learning contract in the past, we have never used individualized contracts where students identify personal goals. By emphasizing students' own goals, I hope that students will fully engage in the experience and leave the clinic armed with tools to help boost their professional development when they enter practice.

This vision pares down what we seek to do in the current year-long configuration of the clinic, primarily by de-emphasizing objectives that can be achieved through other courses in the curriculum.<sup>265</sup> In doing so, however, students

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262. *Id.* at 62.

263. See generally Weinstein, *supra* note 206, at 573 (“I have watched very capable students make the leap to very capable young student lawyers. They are not ready for all that awaits them in practice, but they have taken a big step in that direction.”).

264. Jane H. Aiken et al., *The Learning Contract in Legal Education*, 44 MD. L. REV. 1047, 1048-49 (1985) (quoting R.M. Barlow, *An Experiment with Learning Contracts*, 45 J. HIGHER EDUC. 441 (1974) (defining a learning contract “as a ‘document drawn up by the student in consultation with [an] instructor specifying what and how the student will learn in a given period of time.’”).

265. The current goals of the CYLC are to: (1) “Train students in

will still be exposed to many of the things we do in the current clinic. Among the goals of our year-long clinic is to teach “fundamental lawyering skills,” and we try to devote equal attention to a broad range of skills.<sup>266</sup> In a one-semester clinic, the focus will be on those skills best learned when there is a real client and ever shifting facts: client interviewing and counseling, fact development, and problem solving. Trial skills, on the other hand, will not receive a great deal of attention because the University of Miami has a rigorous simulation litigation skills course in which many of our students enroll. Of course, students will need to be prepared for litigation if necessary. Rather than devoting precious class time to in-depth training on litigations skills, I may provide guidance on trial techniques individually and recommend trial texts or webinars for students. Class time may be better used for oral arguments or mock trials.

Another current clinic goal that will be de-emphasized is teaching substantive law. We currently devote almost half of our classes in the first semester to teaching substantive law on a range of topics such as child welfare, special education, and disability law. As part of our non-directive approach, we also often expect students to find the law, and sometimes reinvent the wheel, on even basic law in our substantive areas. Because substantive law is no longer a primary focus, students can be provided the general law more efficiently during the orientation at the beginning of the semester or through better dissemination of reference material and prior clinic work product. Students will still be expected to do research on issues specific to their cases, and substantive law may be discussed in class as part of a broader discussion about legal strategy.

While one of the clinic’s goals still reflects a social justice

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fundamental lawyering skills[;]” (2) “Instill in students high standards of ethics and professional responsibility[;]” (3) “Provide high quality, professional and zealous representation to our clients[;]” (4) “Foster students’ ability to engage in self-reflection and introspective professional development[;]” (5) “Enhance students’ understanding of how legal doctrine and institutions operate in individual cases[;]” and (6) emphasize the value of public service. CYLC MANUAL, *supra* note 142, at 1.

266. *Id.* Work of CYLC students “may include client interviews, motion practice, informal and formal discovery, negotiations and mediations, court and administrative hearings, trials and appeals, complex litigation, and legislative advocacy.” *Id.*

mission, it would be implemented more narrowly than in the current year-long clinic. Students in the year-long clinic work on a wide range of law reform projects including legislation, administrative advocacy, amicus briefs, and litigation. In the one-semester clinic, students will learn to interview and counsel in a way that reflects understanding of the lives of our clients. And we will discuss the way in which the law often operates to further marginalize the indigent.

In addition to their individual cases, students will participate in at least one project that approaches problem-solving “from another perspective, such as providing community education, engaging in collaborative problem-solving with a community group, or examining an issue or problem that arises in the context of their representation of individual clients.”<sup>267</sup> There may be manageable projects that allow students to “recognize that ‘lawyering for social change requires lawyers to attend to the broader social context in which the client and other similarly situated persons live.’”<sup>268</sup> The key is identifying a project that is discrete enough to allow the student to have a meaningful experience in one semester.

The one-semester clinic will still handle several different types of cases, but will focus primarily on cases with shorter life spans. A clinic for youth transitioning out of the foster care system, or who have already aged out, may lend itself to a one-semester model. The one-semester clinic could primarily handle administrative appeals of independent living benefits, Medicaid waiver cases, and guardianships for youth with

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267. Seielstad, *supra* note 254, at 465; see also Srikantiah & Koh, *supra* note 98, at 455-59 (discussing the benefits of “exposing students to” big picture advocacy work, in addition to individual case representation).

268. Sara R. Benson, *Beyond Protective Orders: Interdisciplinary Domestic Violence Clinics Facilitate Social Change*, 14 CARDOZO J.L. & GENDER 1, 10 (2007) (quoting Margaret Martin Barry, *A Question of Mission: Catholic Law School's Domestic Violence Clinic*, 38 HOW. L.J. 135, 156 (1994)). Professor Seielstad discusses how domestic violence clinic students learn about law as a tool for social change through educating elementary and high school students about domestic violence, organizing a support group for victims of domestic violence, conducting research about practice and client narratives, and lobbying. Seielstad, *supra* note 254, at 9-11. See also Duquette, *supra* note 235, at 17 (noting that students in the one-semester University of Michigan Child Advocacy Clinic are involved in legislative drafting).

disabilities. These are essentially cases in the current CYLC caseload mix that are capable of resulting in a start to finish experience in the course of one semester. Students should be able to meet with the client and understand the problem, engage in strategic planning and analysis, and execute strategy in one semester.<sup>269</sup>

Every team of students will be assigned one administrative appeal, as well as two or three other cases.<sup>270</sup> It is hard to gauge how much time students will need to spend on this particular mix of cases, so the caseload may need to be adjusted. The value in administrative appeals is that they allow students to get an entire litigation-based experience in a condensed time-frame, and might involve negotiations, pre-trial motions, trial preparation, and an evidentiary hearing. For example, our Medicaid waiver cases are typically set two months from notice of appeal. The cases are challenging, often involving expert witnesses and review of medical evaluations, yet manageable for a student who devotes the time necessary to master the facts and law. Guardianships typically culminate in fairly straightforward court hearings, but are rich with opportunities for students to develop facts, analyze potential options to achieve the clients' goals, and draft simple pleadings.

By focusing on a client population, such as older youth, as opposed to a substantive area, we will continue to represent the "whole client." We may not be able to handle as broad a range of cases as we currently do, but can continue to do holistic representation. Students will still need to recognize the clients' strengths and challenges, as well as the nuances of the clients' experiences and the lens through which the client sees the

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269. See Weinstein, *supra* note 206, at 585.

270. In the current year-long CYLC course, students work individually. In the one-semester clinic, students will work in teams of two, both as a means to cut down on formal supervision meeting time and to increase the likelihood that every student will get a similar range of experiences. See Daniel S. Medwed, *Actual Innocents: Reflections on Selecting Cases for a New Innocence Project*, 81 NEB. L. REV. 1097, 1147 (2003) (recognizing student teams may lead to more effective results "because they teach and learn from each other and, from the client's perspective, two heads are often better than one."); see also David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199, 209 (1994) (arguing students teams foster the opportunity to learn how to collaborate with colleagues).

world. Students will still be asked to confront questions such as: What are the factors that led to the client's current circumstances?; What factors influence what the client wants?; and What are our assumptions about the indigent? Cases that cannot be handled by the one-semester clinic can be referred to another clinic within the law school or a legal services program in the community.

The number of credits will be increased from the current four credits for ten hours of field work and three and one-half hours of seminar per week to at least six credits. Under the formula that we use, six hours of clinic would translate into approximately twenty-one hours of structured interaction time in the clinic. By working more hours in the clinic, students have more time to devote to their cases, thereby increasing their opportunity to learn from the experience. At the same time, students have fewer required courses during their semester of clinic. This responds to the concern most commonly expressed by students who favored a one-semester clinic that the time spent on clinic makes it difficult to balance clinic with other classes.

## VII. CONCLUSION

In developing clinical programs, we should be conscious of the trade-offs in choosing to offer clinics for a year or a semester. Based on my experience in the CYLC, as well as analysis of clinical and learning theory, I believe there are sufficient benefits to students, clients, and law schools that there should be year-long clinics. At the same time, the value of providing a clinical opportunity to as many students as possible justifies offering one-semester clinics. In offering one-semester clinics, clinicians should be mindful of setting realistic goals and designing the clinic to ensure that students get the most of the experience. As with other aspects of clinical design, we need empirical research on whether longer clinical experiences lead to students who are better prepared for practice.<sup>271</sup> Data is

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271. Sandefur & Selbin, *supra* note 31, at 84 (noting that one of the challenges with drawing conclusions from the *After the JD Study* is that "some students may have spent several terms in their law school's clinical program, while others will have spent only a brief time participating in clinical training.").

important for law schools as they consider how to improve legal education,<sup>272</sup> as is rigorous and thoughtful exploration of how to develop a clinical program that achieves institutional goals.

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272. Silver, *supra* note 36, at 374.