

1-1-1971

# The Public Service Responsibilities of the Bar: The Goal for Clinical Legal Education

Peter Swords

Follow this and additional works at: <http://repository.law.miami.edu/umlr>

---

## Recommended Citation

Peter Swords, *The Public Service Responsibilities of the Bar: The Goal for Clinical Legal Education*, 25 U. Miami L. Rev. 267 (1970)  
Available at: <http://repository.law.miami.edu/umlr/vol25/iss2/4>

This Article is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized administrator of Institutional Repository. For more information, please contact [library@law.miami.edu](mailto:library@law.miami.edu).

# THE PUBLIC SERVICE RESPONSIBILITIES OF THE BAR: THE GOAL FOR CLINICAL LEGAL EDUCATION

PETER SWORDS\*

I. INTRODUCTION .....	267
II. THE PROGRAM .....	268
A. <i>Objectives of the Program</i> .....	268
B. <i>The Rationale</i> .....	270
C. <i>Content of the Classroom Component</i> .....	270
D. <i>Some Additional Considerations</i> .....	276

## I. INTRODUCTION

This article is an analysis of the use of the clinical approach in a key area of legal education—the development of a capacity to make judgments concerning the responsibilities of the lawyer and the law. The article argues that the primary educational objective for law school clinical programs is to promote an awareness by students of the legal profession as a service profession with major obligations to broad segments of society that go largely unserved. Furthermore, the article points out that a classroom component is an essential part of any clinical program.

A short description of what might be a typical clinical legal education program follows. Each semester, perhaps as many as 40 second and third year students enroll for three hours of credit in a course entitled “Provision of Legal Services.” They are expected to work one afternoon a week for at least three hours in a neighborhood law office managed by the law school and situated in a nearby ghetto. The office provides legal services to indigents of the community in the civil field. It has its own indigency standard which is somewhat more liberal than that used by the local OEO legal services program.

Three attorneys comprise the full time staff of the office. They handle the office’s more complicated cases and any cases that, for one reason or another, the students fail to pick up. Theoretically, the attorneys are also expected to supervise the students working in the office. Actually they do not. What happens is that those students who are interested in getting help take advantage of the attorneys’ open door policy. They frequently have conferences with one attorney or another and go over their work or discuss case strategy. The remaining students work on their matters by themselves and rarely seek out supervision. Students working with attorneys on the more complex cases, however, are provided with considerable supervision. The attorneys are on the faculty as instructors and can attend faculty meetings, but none have received a regular faculty appointment. Excellent manuals on procedural and substantive law help the students to a considerable degree in the actual handling of cases. In

---

\* Secretary & Treasurer, Council on Legal Education for Professional Responsibility, New York, N.Y.

addition, a number of third year students are assigned to supervise second year students.

During his afternoon in the office, a student handles intake. Any matter that is introduced to the office during his interview becomes his case, and so far as possible he is responsible for seeing it through to completion. Under a student practice rule, patterned after the ABA model rule, third year students certified by the Dean are permitted under the supervision of an attorney to appear in court and argue cases on behalf of indigent clients. Each student is expected to put in five hours per week in addition to his office time in preparing his cases. The office maintains an efficient case filing system and one of the more experienced secretaries acts in part as a managing clerk.

Matters concerning domestic relations make up about 40 percent of the office's case load, housing about 15 percent, consumer problems about 10 percent, and welfare and administrative matters about 10 percent. The remaining 25 percent of the caseload comprises various cases, including representation of community groups and litigation of test cases.

Each week, the students are required to attend a two hour seminar session that is run by a regular faculty member who directs the clinical program and teaches in the traditional curriculum. He has no case responsibilities at the office but visits it frequently and keeps well abreast of its activities. At least one of the office attorneys is expected to attend the seminar each week. The subjects that might be covered in the seminar are suggested later in this paper.

## II. THE PROGRAM

### A. *Objectives of the Program*

A basic question which arises is whether the fundamental purpose of a clinical program ought to be the extension of legal services or the teaching of law students. For the purposes of this article, it is assumed that a clinical program's first responsibility is to teach its students. Some of the goals to be achieved by this form of legal education are as follows:

1. Training is received in practical legal skills not usually exercised in the traditional curriculum, such as interviewing, counseling, negotiating, fact gathering and advocacy skills. It should be noted that some people believe that these skills can be taught more effectively at much less expense in a simulated classroom program.

2. Law students learn to turn out a careful lawyer-like work product. As Professor W. Barton Leach has said in describing the basic qualities of a good lawyer, the objective here is to develop "*self-discipline in habits of thoroughness*, and an abhorrence of superficiality and approximation."<sup>1</sup> This goal is particularly important for those students who will

---

1. Leach, *Property Law Taught In Two Packages*, 1 J. LEGAL ED. 28, 31 (1948).

not have the advantage of serving an apprenticeship with a major law firm or government agency.

3. An awareness is developed of the public service aspects of a lawyer's professional responsibility. Until recently, law schools have been almost exclusively oriented toward preparing law students for a commercial practice.<sup>2</sup> Curriculums have been largely molded by the fact that lawyers must live by their profession, and a glance through the current catalogue of any law school will reveal that such a focus still prevails to a considerable extent. The neglect of areas of the law involving the poor and the lower middle class may be attributed in a large part to this orientation. To a considerable extent, the development of clinical programs has helped widen the focus of legal education. Their most important educational objective is to make law students aware of the public service responsibilities of the legal profession to the poor.

Karl Llewellyn has described the lawyer's function as follows: "[T]he essence of our craftsmanship lies in skills, and wisdoms; in practical, effective, persuasive, inventive skills for getting things done, any kind of thing in any field; in wisdom and judgment in selecting the things to get done. . . ."<sup>3</sup> A good clinical program can initiate what should be a lifelong undertaking for the lawyer—the development of wisdom and judgment in reflecting upon the law's responsibilities and the responsibilities of the lawyer. In an interview by Anthony Lewis, former Chief Justice Earl Warren said:

I have only one real quarrel with the law schools—I don't know one in the country where they give an adequate course on the responsibilities of lawyers to the cause of justice, or where they give a comprehensive course on the reciprocal responsibilities of court and lawyers to the administration of justice, and I think that has kept our bar from being alert to many of these problems that have confronted our courts.<sup>4</sup>

In addition to these main points, a number of other educational objectives have been suggested for clinical legal education. These include: a) gaining an understanding about the behavior of judicial and other governmental officials in areas where there are noteworthy delegations of discretion; b) developing one's self-image as a lawyer; c) stimulating students' interest in classroom work; and d) keeping the law school current on what is going on "in the real world." None of these objectives need be viewed as an exclusive standard for clinical legal education. Rather, each should be viewed as supplementing the others.

---

2. See Reich, *Toward the Humanistic Study of Law*, 74 *YALE L.J.* 1402, 1407 (1965).

3. Llewellyn, *The Crafts of Law Re-Valued*, 15 *ROCKY MOUNTAIN L. REV.* 1, 3 (1942) in K. LLEWELLYN, *JURISPRUDENCE* 318 (1962).

4. *N.Y. Times Magazine*, Oct. 19, 1969, § 6 at 132.

### B. *The Rationale*

In the face of many overlapping objectives, a position that emphasizes concern for professional responsibility as a major educational goal might seem difficult to maintain. If so, the difficulty probably lies in the assumption that to some extent such an objective proposes that legal education change the attitudes of the student. The objective, however, is not to change the students' motivation by redirecting them from self-interested aims to the altruistic goal of service. Rather, it is to suggest to them that service is an institutional goal of the profession. Developing this point Gresham Sykes has said: "A profession sweeps into its train the egotistical and altruistic alike, and demands conformity to its concept of service without regard for personal inclination."<sup>5</sup> The emphasis of these matters at law school should nurture these norms within the legal profession at large.

If our objective is to have law students think about the law's and the lawyer's responsibilities to the poor, then they must, as far as possible, understand the legal problems of the poor from the perspective of the indigent. It is a difficult leap for an attorney to make, but certainly not an impossible one. When a student represents a client, he becomes personally involved because he assumes responsibility for that client. Insights are revealed that might never become apparent from reading about the problems of the disadvantaged or discussing such problems in a classroom. For example, whether public assistance is a right or a privilege (charity) is a question that can be better answered after one has represented a number of welfare clients.

"We do not need theories so much as the experience that is the source of the theory."<sup>6</sup> If, for instance, the object is to make apparent to students the process and the nature of the lower courts, the student learns through representing his clients before these courts. By doing so he gains a much deeper understanding of the problem than a student who, as part of an empirical research project, merely observes the courts in operation and gathers and studies various statistics regarding the courts' activities. Students must learn to recognize legal issues from the standpoint of an advocate for the poor. For developing this perspective, there is no substitute for actual legal representation. In short, for law students to question the responsibilities of lawyers to the poor, it is necessary to involve them as lawyers in actual situations.

### C. *Content of the Classroom Component*

It is also necessary to have a classroom component as part of a clinical program. Under the guidance of a law professor, students can be taught to reflect upon their actual experiences in such a way as to perceive

---

5. Sykes & Cortese, *Service and Self Interest*, June, 1967 (unpublished paper in Denver Law School Library).

6. R.D. LAING, *THE POLITICS OF EXPERIENCE* 17 (1967).

the service implications involved in the practice of the law. A liason is established between field and classroom work. Experience in the field provides the initial text for classroom discussion. Conversely, insights developed in class are brought by a student to his field work and now the experience is perceived with an expanded vision.

The remainder of this article will suggest the outlines for the classroom component of a clinical legal education program which stresses professional responsibility. Although the emphasis here is on professional responsibility, it is not implied that the subjects suggested herein are to be the exclusive concern of the classroom sessions. To the contrary, a discussion of specific legal and strategic issues that have arisen out of the students' actual cases and some general coverage of substantive and procedural law are clearly appropriate topics for classroom discussion. In addition, much of what follows assumes a civil law program. However, a similar approach could be developed for a criminal law program.

An inventory of the legal problems of the poor should be formulated as a first step. Without a clear idea of the extent and nature of the legal problems of the poor, little can be done in terms of analyzing the law's responsibility for the indigent. Many lawyers today readily acknowledge that the poor have problems, but they seem unable to define them as legal problems. On this subject, it has been said:

There is a tendency to conceive of [the poor's] problems as basically social or psychological [problems], calling for therapy rather than justice. Moreover, even when a legal problem is detected the attention of the lawyer may shift to some other, more "fundamental," yet nonlegal level of concern.<sup>7</sup>

Just as a commercial lawyer, when asked for help with a complicated business problem, can discern a host of legal issues to which his businessmen clients are relatively blind, so a well trained poverty lawyer should be able to pick out of the extensive misery of his poverty clients, all of their legal problems.

Classroom analysis is especially well suited for developing a perspective that will enable law students to recognize the legal problems of the poor. In class, students can be required to rigorously question assumptions and discover dimensions of problems that they have previously overlooked. That these traditional techniques can be used with great effectiveness is undoubted. In place of appellate decisions, however, field experiences will provide the major text for discussion.

Frequently, the law itself operates to the disadvantage of the poor. For instance, in the doctrine that the tenant's obligation to pay rent is independent of his landlord's covenants to repair and maintain the premises, the common law has generally favored the landlord against the

---

7. J. CARLIN, J. HOWARD & S. MESSINGER, *CIVIL JUSTICE AND THE POOR* 58-59 (1967) [hereinafter cited as CARLIN].

tenant.<sup>8</sup> Many argue that the income tax laws promote and perpetuate slums.<sup>9</sup> Favored party bias may also be seen in the consumer area with respect to interest ceilings imposed on installment credit and small loans and the operation of usury laws.<sup>10</sup> The examples are legion.<sup>11</sup> The double standard reflected in American attitudes to handouts to businessmen and farmers on the one hand, and the poor on the other,<sup>12</sup> provides a useful background for developing the type of analytical approach suggested here. Students would become sensitive to the complexity of much of the law that applies to the poor and to the fact that no rules or remedies exist for numerous injustices which have been dismissed by the law as "de minimis." To be effective, the law must be predicated on a widespread personal willingness to submit to its governance. That effectiveness would seem to be vitiated by laws and procedures which give rise to dual standards. Clearly, the development of a perspective that sees the law itself as serving to define and maintain the position of the poor<sup>13</sup> can be aided by classroom treatment.

Moreover, classroom treatment can promote similar insights into the administration of the law and its effects on the poor. Ideally, decisions that vitally affect the individual litigant should be made in accordance with determinate rules and pursuant to regular procedures. But even a brief look at the lower courts, where the overwhelming majority of cases involving the poor are decided, will demonstrate how far from this ideal American justice has strayed. Massive case loads and far too few adjudicators have caused justice at these levels to become a process which has as its primary objective the rapid disposition of cases. Courts serving the poor tend to perceive their functions in terms of who the litigant is rather than what he has done.<sup>14</sup> Decisions become judgments as to the treatment of social problems rather than the adjudication of rights.

Similarly, when other governmental agencies, such as welfare departments, deal with the legal rights of the poor, they often base their judgments on their institutional conception of the client's best interest rather than the client's procedural and substantive rights. At this point, a good seminar would raise the question of whether the values associated with the rule of law could be achieved in a welfare state.<sup>15</sup> Any adequate classroom examination into the conditions tending to undermine the

---

8. *Id.* at 5.

9. *See Id.* at 7 & n.24.

10. *See Id.* at 8.

11. *See generally Id.* at 4-21.

12. *See generally* Reich, *Social Welfare in the Public-Private State*, 114 U. PA. L. REV. 487 (1966).

13. CARLIN, *supra* note 7, at 21.

14. *See* CARLIN, *supra* note 7, at 25.

15. *See generally* Jones, *The Rule of Law and the Welfare State*, 58 COLUM. L. REV. 143 (1958); Sparer, *The Role of the Welfare Client's Lawyer*, 12 U.C.L.A. L. REV. 361 (1965).

integrity and effectiveness of agencies applying law to the poor would also include an analysis of the economics and financing of these agencies.

As illustrated thus far, the course described deals for the most part with legal process. Substantive and procedural law are not taught per se but are considered as illustrative of the dysfunctioning of the law as it applies to the poor. Students should therefore be able to make more informed judgments on law reform issues after having participated in such a program. Further, such classroom analysis should enable students to develop some notions about reforming the actual machinery of justice and about the bar's responsibilities for effecting such changes. The next area for suggested classroom treatment would examine the role of lawyers per se in the administration and extension of justice.

One of the major differences between a commercial practice and a practice involving the poor is that in the latter instance the human element is usually a major factor in any particular case.<sup>16</sup> Typically, when a legal problem finally manifests itself for the poor, it involves a crisis situation spelled out in human terms.<sup>17</sup> For example, the client is in jail; his welfare payments have been cut off; or he has received a 24 hour notice of eviction. John Ferren has said:

As lawyers try to fashion a more just society, they must take suitable account of those human situations which put the greatest strain on our society and cause the legal process to function at its worst. Riots, rent strikes, and the chaos of destitute families are all manifestations of oppression and alienation which no lawyer can hope to deal with unless he himself can understand and feel what reconciliation is needed. This means that lawyers must have broader capabilities in human relations than our law schools attempted to nourish in the past. The only way for students to grow in this respect is through field work, that is, personal involvement with the application of law at its lowest and roughest levels. There is no better way to learn how people are actually affected by and feel about the institutions and laws by which they are governed. And, equally important, there is no better way for students to learn how they will have to relate to persons they undertake to help.<sup>18</sup>

A lawyer engaged in a poverty practice will often find he has two principal services to extend to his client. One is to obtain whatever legal relief may be necessary. The second is to counter alienation by promoting

---

16. In an introductory paper to a syllabus for his course entitled *The Provision of Legal Services*, prepared during the fall of 1969, John Ferren states:

[T]he problems of the impoverished and alienated clients rarely have an exclusively legal nature; the lawyer is confronted by a human problem, partly legal—and often less legal than otherwise—which the lawyer is neither trained nor temperamentally equipped to handle in toto. (unpublished paper in Harvard Law School Library).

17. See generally Cahn & Cahn, *What Price Justice: The Civilian Perspective Revisited*, 41 NOTRE DAME LAW. 927, 955-56 (1966).

18. Ferren, *The Teaching Mission of the Legal Aid Clinic*, 1 ARIZ. ST. L.J. 37 (1969).

his client's sense of autonomy in a situation where his feeling of being an object manipulated by the system is frequently hypertrophied.<sup>19</sup> With an uneducated, impoverished, and distrustful client, this additional function can be extremely difficult to perform. Indeed, there would seem to be a tendency for poverty lawyers to perceive their client's problems as social service agencies perceive them—one of treatment rather than one calling for the assertion of rights.<sup>20</sup> As Ferren suggests, law students must be educated "to give first thought to the other fellow's dignity—how to size up a situation and offer whatever can be helpful without demanding that the other fellow accept it. This is the problem of learning how to be an agent without trying to become principal."<sup>21</sup>

A student should learn how his clients perceive their own problems and consider how he should interpret these same problems to his clients. He must learn to take account of the entire range of remedies that may be available to his clients and to reconcile any differences that might arise between his view and his client's view of which remedies are most appropriate. While involvement with actual clients is essential for developing an understanding of this aspect of poverty law, classroom analysis can produce a clearer comprehension of the human element and the lawyer's function. Here the objectives of the course closely approach the true meaning of the word "clinical" that is frequently used in reference to medical education. Not only must students become acutely sensitive to the human relation aspects of their practice, but they must also learn how to control their own personal involvement in their client's problems.<sup>22</sup> Conversely, students must learn how to deal with themselves when they feel their adversary is right. In sum, they must learn how to develop a sense of the optimal emotional distance which a professional person can maintain between himself and his client.<sup>23</sup>

Strictly speaking, two separate educational elements are involved here. Students must learn how to deal with clients from a background widely disparate from that which they themselves have come from, and they must learn how to handle themselves in difficult human and professional relationships. In a sense, this is "skills" training. Secondly, they are being taught to take into account the profound and pervasive relevance of the human element in examining the responsibilities of lawyers and the law as they relate to the underprivileged.

Frequently, a student's motivation for participating in a clinical program will spring from an intense idealism. Ferren has said:

---

19. See Note, *Neighborhood Law Offices; The New Wave in Legal Services for the Poor*, 80 HARV. L. REV. 805, 811 (1967).

20. See CARLIN, *supra* note 7, at 58-59.

21. Ferren, *supra* note 18, at 39.

22. See generally Ferren, *supra* note 18, at 46-47.

23. Another aspect of this problem is suggested by Ferren's statement that:

[O]ne's emotional commitment to equal justice for all makes detachment and tough mindedness difficult in this context; it is hard in many individual cases to admit that justice is on the side of a landlord or a creditor when larger issues of economic justice pervade the setting.

Ferren, *supra* note 16.

There is a danger that when someone with this outlook eventually tries some social engineering which does not work, his reaction will be a cynical or bitter assertion that nothing will work. The compassion with which he started will become hardened into a belief that most people, after all, get what they deserve.<sup>24</sup>

A primary function of classroom discussion would be to provide an antidote to this sort of despair by helping him put his experience into a more realistic perspective.

To develop the kinds of skills and insights suggested here, the focus must be on the individual client and the lawyer-client relationship. Indeed, there would seem to be no better base for a consideration of any of the broader issues of law reform than a full exposure and initial emphasis on the legal problems of the poor as experienced by the client and his lawyer. Any institutional viewpoint should be grounded on a full appreciation of the problems from the individual client's viewpoint.

Against this background, an analysis should be made of the various alternatives for resolving disputes and providing legal services for the poor. The efficacy of the neighborhood law office system should be compared with *judicare* and other approaches such as group legal services, group legal insurance, the use of paraprofessionals and volunteer attorneys. The proposition that some disputes might be better resolved through mechanisms not necessarily involving lawyers or the courts, such as mediation, arbitration, or neighborhood courts operated by residents of the community should be explored. Any complete discussion of legal service delivery systems would have to include consideration of the economics of the legal profession.

An examination can be made of the ultimate objectives of a legal services system designed to serve the poor; *e.g.*, legal aid to as many individuals as practical, or the elimination of some of the causes of poverty through legal action. Should the question of ultimate objectives be posed as primarily a question of resource allocation or are there better ways of stating it? The assumption that legal problems are like most health problems—that is, individual hurts requiring individual treatment—should be explored. Theories involving a collective approach to justice should be considered. Also to be questioned, and equally important, would be the assumption that many legal problems of the poor are not essentially individual ones but instead can best be solved through collective measures. An examination might be made of the conflict between the Canons' (Code's) mandate that a lawyer should represent his client competently and zealously<sup>25</sup> and the enormous caseloads of a legal services office. The tendency of such caseloads to cause a lawyer to dehumanize his relationships with his clients could be raised<sup>26</sup> as would the effect upon the

---

24. Ferren, *supra* note 18, at 39.

25. ABA CODE OF PROFESSIONAL RESPONSIBILITY, Canons No. 6 & 7 (1969).

26. See Bellow, *Reflections on Case Local Limitation*, 26 LEGAL AID BRIEFCASE 195-96 (1969).

client of waiting rooms, delayed appointments and hurried interviews.<sup>27</sup> Students might be asked if the proper question is whether to limit caseload, or whether, given the fact that there are inevitable practical limits on an office's caseload, the question should be in what way should caseloads be limited.<sup>28</sup> In discussing the caseload problem, Gary Bellow has said:

If the issue were solely the amount and availability of service, we could at least deal with the problem in quantifiable terms. The difficulty is that the absence of legal services is not analogous to the absence of doctors, nurses, employment counselors, and other 'services'. Legal skills can themselves be a vehicle for dealing with basic institutional problems that produce the misallocation of service and resources that is so basic to the problem of poverty itself.<sup>29</sup>

To test the validity and implications of this last assertion would be a valuable classroom exercise. It may be, for instance, that some of the changes sought by an active legal services test-case unit should be achieved through the political process rather than by legal means. Is it valid for a legal services office to perceive as one of its chief missions the finding of leverage points in the system to bring about a redistribution of power and income more favorable to the poor? Certain issues can best be resolved by compromise while others are properly resolved from a standpoint of exact principle. It may be that the use of the law to achieve what are essentially political ends tends to reduce the effectiveness of the law as an instrument for accomplishing whatever its proper ends might be. In this connection, it should be borne in mind that there are a growing number of lawyers who even eschew affirmative litigation strategies and look to the task of organizing for direct action.<sup>30</sup> What are the limits on the use of the legal process as an instrument of social change?<sup>31</sup> Whatever the answers to these questions might be, a rigorous analysis of the issues raised would bring into sharp focus the ultimate objective of defining the limits and extent of the responsibilities of a lawyer and the law.

#### D. *Some Additional Considerations*

There is a major problem in successfully carrying out a clinical program of the kind suggested. It lies in coordinating the classroom

27. *See Id.* at 197.

28. *See Id.* at 199.

29. *Id.* at 200.

30. Tigar, *Lawyer's Role in Resistance*, 27 GUILD PRAC. 196 (1968).

31. Edward H. Levi has recently said:

Law carries the burden, even, or perhaps, particularly in a time of social welfare, of appearing on the whole as a restraining force, thus a negative influence in a world which admires positive action. This in itself creates temptations and tensions—a desire to involve law in programs which have little to do or are perhaps contrary to its discipline. . . . In important ways the operations of our legal system have contributed to basic unrest and to tactics of disorder.

Levi, *The Crisis in the Nature of Law*, 25 RECORD OF N.Y.C.B.A. 121, 134-35 (1970).

coverage of subject matter in a manner which is correlated with a student's field experience.<sup>32</sup> Because of practical problems involved in controlling the content and the nature of a student's caseload, the frequent unevenness of his field experience presents enormous difficulties in achieving the educational objectives of the program.

A growing number of clinical programs function in specialized areas, such as welfare or juvenile law. This approach is said to facilitate the integration of a student's field experience with the classroom component. Typically, this approach involves the addition of a clinical component to an existing seminar on such a subject. Since the fieldwork is concentrated in one area, the students might have a fuller and more intensive exposure to the problems in that field than the comparatively sketchy experiences they would have in a survey type of program such as the one described at the beginning of this article. The organization of the classroom component and its coordination with the student's fieldwork would also present easier tasks than similar ones faced in a survey type program. On the other hand, such specialization obviously narrows the wide range of issues suggested herein for a study of the efficacy of the legal process as it involves the poor.

Assuming, that the approach outlined is followed, certain conclusions would result. Since the proposed approach is essentially concerned with broad legal process issues, it is not vital that direct linkages be made between discrete cases and classroom discussion. To best understand the issues raised during the classroom component, students must be extensively exposed to the community, its individuals, and their problems. Thus, students should have extensive contact with poverty clients, assuming full responsibility for them as a lawyer. Perhaps the nature of the cases involved is less important to the educational process than making sure that students have an opportunity to represent a large number of clients. In other words, the problem often raised of guaranteeing that the cases the students handle are interesting and intellectually challenging, may not be as serious as has been thought.

The neighborhood law office is probably a better setting for a program than a clinic located in the law school. A neighborhood office is likely to have a wider range of clients. Moreover, it takes the students regularly into the community. An approach that services whole family units may be particularly effective although as a practical matter it might be difficult to arrange. Ideally, such a program should handle criminal as well as civil matters so that students can become exposed to the entire spectrum of legal problems that afflict the poor and learn of their interrelation.

In addition, a program should be structured in such a way that each student is familiar with the cases his fellow students are handling. In this

---

32. See Kitch, *Foreword: Clinical Education and the Law School of the Future*, in *CLINICAL EDUCATION AND THE LAW SCHOOL OF THE FUTURE* 5, 18 (U. of Chicago Law School Conference Series No. 20, 1969).

way, he will be able to share, at least vicariously, the experience of dealing with matters with which he may not have an opportunity to be involved. While students frequently share their experiences during classroom sessions, the classroom time can be more productive if the students are already fairly well aware of what the others are doing.

Further, students should have considerable exposure to the lower courts that handle the great bulk of litigation involving the poor and to the government agencies that distribute goods and services to the poor. Here again, the amount of the exposure may be more important than the quality.

The primary educational value of the program that has been outlined in this article is to teach students how to reflect upon the professional responsibilities of lawyers. To a considerable extent, the educational payoff comes in the classroom, with a student's field experience providing the basic text for the classroom discussions. To put the implications of this approach into clearer focus, it might be compared to a program which emphasizes the teaching of "practitioner" skills. Most people who have taught such courses believe that a single teacher can work effectively with five to ten students. With this type of program, the teacher closely supervises each student at each step as his cases progress; in effect, a super-apprenticeship is established. As the major educational pay off is derived from students actually working on cases, the selection of those cases is an important aspect of such a program. Furthermore, there is no absolute necessity for a classroom component of the kind suggested in this article. In contrast many more students can participate in a program of the kind proposed herein because the intensive field supervision required in a program aimed at instruction in basic skills is not required. Moreover, as suggested, the quality of cases is not as important as the extensiveness of the students' exposure. Finally, the classroom component is the control factor in the achievement of the educational objectives of the program.