The two of them stood outside the courtroom, nervously reviewing the pleadings and speaking in soft tones to their client. Their client, a young, single mother, was near tears, afraid that the father of her children would convince a judge to grant him temporary custody of their children. After hours of research and preparation, the two are ready to present their client's case. The father's attorney, in practice for many years, holds firm on his client's demands for custody. After a drawn out hearing, the judge orders the children to remain with their mother, and orders the father begin to pay child support to the mother. The two are told to prepare an order for the judge's signature. With tears of relief in the client's eyes, the two walk their client to her car discussing the next step in her case. These two are not attorneys, but third-year law students from the Creighton Legal Clinic. Several times each week students from the Creighton Legal Clinic can be found at the courthouse, representing low-income Omahans in a myriad of cases.

THE BEGINNING

The preparation for these cases began long before I was hired and the Creighton Legal Clinic opened for business. When Dean Larry Raful came to Creighton in 1988 he had a vision of Creighton Law School that included a legal clinic. By 1990 students were showing a strong interest in participating in a clinic. In 1991 Dean Raful appointed an ad hoc faculty committee to investigate the feasibility of creating a legal clinic. This committee, made up of Professors Catherine Brooks, Ronald Volkmer, Rodney Shkolnick, and Eric Pearson, investigated the educational values of clinical education, the various forms of clinics, and the financial considerations of establishing a clinic. The committee looked at the fundamental skills and values every lawyer should acquire before assuming the responsibility for handling a case, and how those values and skills could be taught in a
clinical setting. Those lawyering skills included interviewing, legal analysis and reasoning, factual investigation, counseling, negotiation, written and oral advocacy, file and time management, and recognizing and resolving ethical dilemmas. The fundamental values included striving to promote justice and fairness, improving the profession, providing competent representation, and aiding the students in developing professional goals.

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The committee saw a clinic as an opportunity to “put a human face on the law.” Students in a clinic would have the chance to learn that lawyering is more than understanding the law; it is tending to the particular needs and limitations of clients in ways that are respectful of the client’s interests and wishes; it is case management strategies that are less than ideal because of the limitations or desires of the client; and it is failing, on occasion, to gain the client’s objective. All of these opportunities would contribute to the goals of legal education, both for the student and for the law school.

Having determined that a clinical program would meet the education objectives of the law school, the committee contacted several law schools with active clinical programs. After many discussions and visits to two law school clinical programs, the committee recommended that the clinic at Creighton focus on routine civil legal matters with an emphasis on cases that could be handled in the course of one semester. This would allow students to be involved in a case from the initial client interview to its resolution. By handling less complex cases, a student would be able to accept more cases, allowing exposure to different types of legal issues and clients. The committee further recommended that the clinic initially be limited to ten to twelve students per semester, as this would allow for close supervision by the clinic director. Late in 1991, the committee took its report to the faculty, which unanimously endorsed the addition of a clinical program to the curriculum.

The cost of hiring a director and operating a clinic would be an expensive undertaking. Thus, the committee’s final task was to locate possible funding sources. Space for the clinic was available in the visiting faculty apartment, which needed extensive renovation to make it a suitable space. The committee established a first year budget in excess of $150,000, which included furniture, equipment, office supplies, litigation expenses, malpractice insurance, and salaries for the director and office manager. Through the efforts of Dean Raful, the Lozier Foundation pledged $75,000. With this pledge, the committee began searching for matching funds.

Professor Brooks drafted a detailed grant proposal for the United States Department of Education’s Clinical Legal Experience Program. The proposal set out a general civil practice clinic designed for low-income residents in the Omaha area. In the Spring of 1992, the Department of Education notified the law school that it would provide matching funds for the legal clinic.

Dean Raful appointed a faculty committee to select the clinic director and a national search began. Several candidates were brought to Creighton for interviews, and I was offered the position as Clinic Director. At the time, I was a clinical faculty member at Thurgood Marshall School of Law in Houston, Texas, with over seven years of clinical experience and twelve years in the practice of law. I couldn’t resist the challenge of developing a model clinical program from the ground up. The enthusiastic support of the clinic from Dean Raful, the faculty, and Creighton administration also played heavily in my decision. I accepted the position at Creighton with a start date of October 1, 1992. Much work needed to be done in order to be ready for the students in January, 1993. By the time of my arrival, the renovation of the apartment had begun. A bathroom and closet and the carpeting had been removed from one room, and the contractors were busy finishing the student work area. I asked them to install a door in the wall between my office and the student work area so that I would be more closely connected to the students and their work. Furniture, office equipment, and supplies were ordered for delivery by the 1st of January, 1993.

The renovations were soon complete and the area received a fresh coat of paint throughout. Efforts were well under way to hire an office manager. I spent the remainder of my time contacting and visiting various social service agencies and community organizations, including the Legal Aid Society, Public Defenders Office, law firms, judges, and homeless shelters.

By the beginning of 1993, the Creighton Legal Clinic was fully equipped and ready to begin operation. The Clinic was off to a great start even before it opened for business when Connie Kearney, `87, volunteered her assistance on a three-quarter time basis. Her offer was gratefully accepted. Mrs. Kearney came to the Clinic with over four years of experience as an attorney at the Legal Aid Society of Omaha, and a year clerking with Judge Timothy Mahoney, bankruptcy judge of the United States Bankruptcy Court in Omaha. With her she brought a great spirit of volunteerism, as she is very involved in many community projects, including her work as vice-president of the board of directors of the Millard Suburban Fire Protection District. Mrs. Kearney is also deeply committed to serving the legal needs of low-income persons.

On Monday, January 11, 1993, the Creighton Legal Clinic opened its doors.

PROCEDURES

On the first day of each semester, the twelve students enrolled are trained on office procedure and taking information
on requests for legal assistance; and are given a tour of the facilities. For two hours each week the students meet in class to discuss various legal issues; hear lectures on legal issues affecting the poor, time and case management, and ethical issues affecting the practice of law; and are lectured on the procedures used by the various courts and administrative agencies.

At the first class meeting the students are paired into teams. Students are encouraged to take the selection of a partner seriously, as the amount of work required in the Clinic is often overwhelming and exhausting, and a well-suited partner is one of the keys to a successful clinic experience. Partnerships provide for the mutual support of the students, promote collegiality, and assist students in learning from one another. After partner selection is completed, each team of students signs up for their weekly team meeting with me. This is the time I set aside each week to meet with the team and focus on the particular needs of these students and their clients. Although these meetings are scheduled for an hour, they often last longer, and frequently students ask for a second meeting during the week. These meetings are used to instruct students on the legal skills and the substantive and procedural law necessary for successful lawyering from interviewing and counseling to the application of legal knowledge through the drafting of pleadings, discovery, and the presentation of evidence in court. Through this process the students receive ongoing, continuous evaluation. After the team has appeared in court or performed some significant legal activity on behalf of a client, the team meeting is used as an opportunity to privately critique each student on his or her performance and make recommendations for future performances. It is also during these weekly meetings that new clients are assigned.

In addition to attending class and weekly case team meetings, each student must staff the Clinic for five hours a week. During this time the student is responsible for telephone intake. Students complete an intake form for each person who calls for assistance. Students are required to perform an additional ten hours per week on case work, which can be done either in or outside the Clinic.

CASES

In its first six months the Clinic received over 530 requests for legal assistance; 430 of those were from persons who financially qualified for the program. The financial guidelines for assistance are income at or below 125% of the federal poverty level - approximately $1,200 per month for a family of three. Our clients clearly cannot afford a private attorney, and the Legal Aid Society of Omaha and Nebraska State Bar Association cannot begin to meet the legal needs of the poor. Our client population is about equally divided between working-poor individuals and persons dependent on some form of public assistance. During the first six months, ninety cases were opened by the Clinic. These cases ranged from landlord-tenant disputes and divorces to consumer disputes and public benefits. A typical case load for a team of students includes three divorces, two modifications, a landlord-tenant dispute, public benefits, a real estate lien or purchase dispute, and a probate matter.

Every student in the Clinic is involved in problem solving, from identifying and diagnosing the problem, to developing a plan of action and alternative plans, to implementing the plan. All through this process students must remain alert for new information and ideas that call for the plan to be modified. But before problem solving can begin, the students must establish a professional relationship with their client that engenders trust and confidence. Students are encouraged to develop effective communication skills that recognize the client's perspective, including cultural or personal values that affect the client's perspective. Legal terminology is discouraged as it tends to separate the students from their clients. With good communication, the students are well on their way to gaining the basic information needed to evaluate the clients' cases.

In many situations lawyers must counsel clients about decisions the clients have to make in matters regarding the client's case. To counsel a client effectively the lawyer must have the relevant factual and legal information, as well as information about the client's objective and perspective. All the options must be presented to the client in a vocabulary suitable to the client's level of comprehension, including the potential benefits and risks. In the Clinic, students, like lawyers everywhere, conduct proper fact investigation and legal research before counseling a client. The law students confront the dilemma of the lawyer's need to remain objective in order to identify options the client has failed to see, while maintaining the role as partisan advocate for the client.

Although the Clinic does not necessarily focus on litigation, it is the area in which most law students in the Clinic feel that they are least-prepared. The Clinic assists the students in identifying the principal conceptual and practice skills involved in whether or not to pursue litigation, in defining the goals and structure of

The first group of Law School Clinic students and their instructors: front row: Rulino Villarreal; Richard Whitworth; David Daniels; Brian Brack (represented by a drawing); Jeffrey Jensen; and Joseph Scruton; back row: Mauricio Vivero; Connie Kornmay, '87; Robert Goldberg; Professor Catherine Mahern; John McCarthy; Christine Lustgarten; Ann Davis; and Christine Chrobak.
the lawsuit, in designing litigation strategy and developing a theory of the case, in conducting discovery and preparing the case for trial, and handling pretrial motions and the trial itself. Students prepared for trial are generally well-prepared for negotiating a favorable settlement for the client,Should the opportunity for negotiation arise.

OTHER ISSUES

A lawyer cannot properly discuss with a client the advisability of initiating or maintaining a lawsuit unless he or she has a general familiarity with alternative dispute resolution mechanisms. Although in the Clinic many of the cases are not suitable to other forms of dispute resolution, students are encouraged to review their cases for that possibility, and make appropriate referrals for those clients.

Many students have come into the Clinic with the idea of practicing law, but have thought little, if at all, about the organization and management of the work of lawyers. Clinic students must maintain time and expense records, must complete work in a timely fashion, must work cooperatively with partners and other students, and must participate in orderly administration of the office by adhering to office policy. Students are responsible for setting and meeting deadlines or seeking a timely extension when reasonably necessary; they must regularly communicate with their clients; they must monitor all ongoing cases assigned to them; and they must complete their work as promptly as possible.

Another area in which students enter the Clinic unprepared is in recognizing the frequency in which ethical dilemmas arise in the practice of law and how to resolve these issues. Many students think that ethics is a course they take in order to successfully complete a portion of a bar examination. To the surprise of most students, the Clinic provides a nearly constant source of ethical dilemmas for students to resolve. Many are subtle, only a few are obvious. For example, one student worked in the office of a private attorney before enrolling in the Clinic. During the semester, he and his partner were assigned a case involving a father seeking a modification of a divorce decree. Upon checking out the court file this student learned that the wife had previously been represented by an attorney who shared office space with the attorney for whom he had worked. Although from further investigation the class concluded that there was not a conflict, the student elected to not have that case assigned to him.

Another team of students discovered an attorney who had converted a client’s settlement for his own purposes. The attorney had represented the client in a worker’s compensation case. When the client, who could not speak English, came to the Clinic for help, the issue came up as to whom lawyers owe their primary allegiance: to the client or to the profession. Would reporting this action to the Nebraska State Bar Association for disciplinary action diminish the client’s ability to recover the funds from the attorney? This led to much discussion, and fortunately, through the hard work of the students, the client’s money was recovered, and the lawyer was reported to the Nebraska State Bar Association.

Another student had an intense dislike for one of his clients. He began to question his ability to work zealously and diligently on the client’s behalf. Through many meetings and long discussions with the team, an arrangement was worked out where the student who disliked the client but who felt bound to continue his representation would work on legal issues and analysis, while his partner, who felt more neutral toward the client, would be involved in the client contact and court representation.

CLIENTS

One of the most significant issues that clinic students must face is the reality of who their clients are. Some clients are fairly well-educated and come from a world culturally similar to that in which most students were raised. These clients may readily recognize the importance of the legal matter before them and can participate fully in the legal process in partnership with the students. However, this is not generally the case. All too often our clients lack basic skills because they are educationally disadvantaged. Many clients read and write at only the most rudimentary level; some are illiterate. Many clients are physically or mentally handicapped. For others the need to resolve their legal problems pales in comparison to their need to find and keep adequate shelter and food for their family. Some clients are so defeated by a lifetime in poverty that they are not capable of conforming their behavior to society’s or the legal system’s standards. One client, a son of a sharecropper, never went to school and is now legally blind and deaf. His ability to understand his legal problem is about as clear as his vision. He can see a general outline of his problem, but cannot clearly understand it. He sees only enough to misunderstand.

By accepting our clients as who they are, the students can avoid the mistake of trying to cast their client into the client they want. The students must advise the clients and impress on the clients the knowledge that their behavior can and will affect the outcome of their cases.

Students warn their clients about certain behaviors or actions; but in the end the clients are who they are, not how we wish they were. No student wants to see days and days of preparation and worry destroyed by a client’s reckless act. But it happens, and it will happen again. Although the law may be predictable, clients are not always so. We are not here to rehabilitate our clients, but to represent them in the fullest sense possible. Students are familiarized with the social service system in the area and make referrals for our clients to receive the help they need for their myriad problems.
In addition to lawyering skills, clinic students are exposed to the fundamental values of the legal profession. Students are encouraged to counsel clients to consider justice, fairness, and morality when making decisions that have an adverse affect on another individual or society. This is especially true in cases involving the recent termination of a personal relationship which leaves bitter feelings between the parties. In instances where there are children, they are frequently used as weapons. Students try to help the client separate legal matters from personal matters, as fairness dictates that children not be so used. Students are encouraged to promote fairness in their everyday lives by treating other people, including opposing counsel, court personnel, and support staff with dignity and respect.

The Clinic provides a unique opportunity for students to become keenly aware of the profession’s responsibility to ensure that adequate legal services are provided to those who cannot afford them. Students see first hand the impact they have on clients’ lives, and how needed they are in promoting justice for the poor. They leave the Clinic with a sense of having made a small, but important contribution to the client and to the legal profession.

**FRIDAYS**

Each week, on Friday, the entire Clinic gathers for its weekly firm meeting. It is an opportunity for students to present to the group recent cases handled, for the group to critique a student’s performance, for a discussion of ethical dilemmas facing a student and a group resolution, and for students to propose changes in office policy or procedure.

**Surely, these students could find an easier way to earn four credit hours; but in the Clinic, sometimes, the spirit soars.**

This meeting comes at the end of a long and hectic week. It provides an opportunity to look at the past week and learn from it, and helps illuminate the upcoming week and the work before the students. It gives the attorneys in the Clinic the opportunity to reflect on the learning process. As weeks go by, we begin to realize that in many ways we have stopped seeing these men and women as students and see them as colleagues, as each begins to fulfill the vision of the lawyer he or she strives to be.

Each Friday I am again reminded of my great fortune to be involved in such meaningful work that helps me fulfill my vision of my life’s work. I can always look back on the week and see how each and every student has gained knowledge and confidence. I can look back and see how each client has been in some way touched by the work of these students, and how the clients have touched them in return. But most of all, I am grateful for the opportunity to see compassion in action - to see the students called by the suffering around them - and their response coming from the deepest part of themselves. Surely, these students could find an easier way to earn four credit hours; but in the Clinic, sometimes, the spirit soars.

**Let the beauty we love be what we do.**

*Jalaluddin Rumi*