In Times of Great Challenge: Redefining the Role of Clinical Education

By Brenda Bratton Blom, Director, Clinical Law Program

On March 6, 2009, we were pleased to host a wonderful gathering of people who are thinking about this moment in legal education. Clinical legal educators are poised to play an important role in the next developments in the legal academy. This is exciting, as it allows those of us who link theory and practice to bring lively innovations to the curriculum and to engage the challenge of deepening our theoretical grounding in the more traditional realm of the legal academy.

But, the context in which we find this conversation happening is one that makes us stop and take stock of what we are doing day to day. This is not a time to just plow ahead as if circumstances were the same as they were last week or last year. This is a time to take a deep breath, and evaluate not just how we are preparing students to be lawyers, but how we are maximizing our impact in the services that we deliver. Clinical education is more than skills building—it is practice in the full context of professional responsibility.

As if by coincidence, on the same day of our conference the Baltimore Sun newspaper reported that unemployment had topped eight percent nationally and that over 11 percent of mortgages in Maryland were past due. To reinforce the bleakness, they ran a photo of a tent city of homeless persons in Sacramento, California. The New Yorker had an in-depth story about the economic unraveling of Florida. February was the fourth straight month of job loss of over 600,000 nationally, with this number climbing beyond 750,000 for job losses in March. Banks are failing, the stock market continues to plunge and we find ourselves part of the first responder system of the legal system. So how do we prepare, or at least begin to prepare, to respond appropriately?

This is the conversation that is currently happening at our law school, and I am sure in clinics around the country. Do we need to add foreclosure clinics? Do we need to do less impact litigation and more brief advice clinics on benefits? How do we help our students prepare to enter practice when law firms
For the past year, the students, staff and faculty with the Community Justice Clinic have been diligently working to create and implement a program designed to increase access to justice by providing brief and affordable legal advice sessions in a casual and inviting atmosphere. We’ve been referring to the project as “The Legal Grind” but we are very much open to other interpretations of how Baltimore justice can best be served up in an environment that will be comfortable to those in need of legal services. Other possible themes have included, “Juice and Justice” and “Legal Services and Lake Trout.” “Jack and Justice” has been kicked around during periods of levity, but never seriously considered.

Regardless of the ultimate marketing concept, the non-profit legal services business will offer legal services packaged as inexpensive, brief consultations on a variety of legal topics in the comfortable setting of a coffee shop or local community center. The goal is that the services provided through the Legal Grind model will help overcome the intimidating nature of a formal legal consult and ease Baltimore City residents’ burden of finding prompt and reliable answers to their legal questions. The model has a history of success on the west coast: its creator, Jeff Hughes, currently has three Legal Grind locations in California offering “coffee, counsel & community.”

The target audience for the brief advice session is the working poor; the Baltimore residents who are unable to pay for solid legal representation yet do not qualify for legal aid. Approximately 150,000 residents of Baltimore City do not have access to legal services. They may have legal questions or concerns; but they cannot afford market rate legal services and are ineligible for free legal services such as the Legal Aid Bureau and the Office of the Public Defender.

We have all been in positions where we need a brief consult with a lawyer (can I get out of my lease agreement?) but do not necessarily need full legal representation. For people of limited means, these brief consults with an attorney have not been within financial reach. Instead of consulting with a lawyer, people have aired their issues with family, friends, and neighbors. These layperson interactions often do little to inform people of their rights and obligations under the law.

LEGAL EDUCATION CONTRIBUTIONS

Over the course of the past year, student attorneys Joshua Richardson ’09, Lydia Nussbaum ’09, Mandy Miliman ’10, Dominic Muller ’09, Kyle Choi ’09, Christopher Ramos ’10, and Julie Tong ’10 have invested more than 600 hours towards making The Legal Grind concept a Baltimore reality. Their legal work has included the following:

- Legal Education – student attorneys have developed PowerPoint presentations and talking points to educate community partners and funders on the concept of the project. Additionally, they made a presentation at the 2008 Maryland Restorative Justice Conference in a workshop entitled, “Community Justice: The Power of Options” where they engaged small groups.
with hypothetical legal problems designed to highlight the benefits of affordable, brief advice.

• **Legal Research** — student attorneys have researched property acquisition, Maryland enterprise zones, business license and regulation requirements, and business entity selection.

• **Legal Negotiation** — student attorneys have been engaged in discussions with business owners, entrepreneurs, and other potential partners to carve out the terms of their involvement and contribution to the project.

• **Legal Funding Quest** — student attorneys have been working diligently to identify, write, and apply for potential funding opportunities. The skills involved in fundraising will carry with them throughout their legal careers.

• **Legal Marketing** — student attorneys have been working on how to market the project under the lens of the Maryland Rules of Professional Conduct.

• **Creating and Acquiring Resources and Equipment** — student attorneys have been actively seeking and compiling the legal resources necessary to launch the project. Additionally, they have been working to acquire the computer and electronic equipment necessary for the project to succeed.

**THE ROAD AHEAD**

The long-term vision is to open several permanent neighborhood Legal Grinds strategically located across the city of Baltimore where the demand for affordable legal services is highest. These self-sustaining, legal coffee houses will provide an affordable and relaxing environment where people can consult with an attorney on a wide range of legal issues to include property foreclosure, employment, criminal, family, bankruptcy, landlord/tenant, and small business law. Additionally, document preparation and mediation services will be offered. The legal services offered will be specifically tailored to meet the needs of the community served.

Success of the program will be evaluated through the number of people served, and the number of people subsequently referred to an attorney for representation. We will also measure quality of services by means of a brief survey offered to advisees.

Because we have yet to acquire the necessary funds to purchase or lease space, we have decided to kick the program off using a “traveling road show” approach. Our short-term goal is to begin offering legal services in community spaces hosted by organizations in Washington Village/Pigtown, Cherry Hill, Brooklyn, and Curtis Bay. We hope to serve approximately 500 people in the first year and over 1200 per year once we have a permanent location and the ability to provide services daily. In order to achieve this goal we will host legal service clinics by working with community organizations to identify the specific needs of the community, encouraging attendance through advertising, and providing valuable legal consultations. Each partner involved in The Legal Grind in Baltimore City shares a commitment to social justice and community service in Baltimore.

Student attorneys and clinical attorneys from the Community Justice Clinic will manage the intake of individuals seeking legal advice at The Legal Grind. By means of a rotating schedule, pro bono lawyers from Civil Justice, Inc. will provide the heart of the legal advice providers at The Legal Grind. Civil Justice, Inc. consists of a network of solo, small firm, and community based lawyers who share a common commitment to providing affordable, high quality legal services to under-served client populations in Baltimore City. Their efforts will be supplemented by pro bono attorneys from around the region. Collectively, these lawyers will provide brief advice and legal referrals as necessary. The student attorneys will assist in brief consultation and legal document preparation.

For thirty-five years, the Clinical Law Program at the University of Maryland, School of Law has represented residents of Baltimore City and the state of Maryland in their search for justice. This work has included supporting neighborhood-based organizations as they establish organizational structures and plan for neighborhood sustainability. Brief consultation is just another way that communities and lawyers can work together to meet those needs.
The Access to Justice Clinic students and faculty at the University of Maryland School of Law have recently made multiple innovative steps in pursuit of certain justices in the Maryland legal system. After ten years of constant reforms, the clinic made a groundbreaking movement in which the “fate of indigent individuals at bail hearings” was finally addressed by the state’s highest court in the case of Quinton Richmond vs. District Court of Maryland. Access to Justice Clinic students along with Doug Colbert, Professor of Law and clinic advisor, argued that an indigent defendant has a right to counsel at initial appearances.

While this case made a vital step towards justice in Maryland’s legal system, this was by no means the extent to which the clinic made progress this past year. In the past year, the School of Law’s clinics have presented an unprecedented five amici curiae briefs to the courts of both Maryland and Ohio. This extraordinary accomplishment represents the progressive movement by the clinic to truly establish justice in the legal systems of not only Maryland but ultimately federal courts around the country.

The first amicus curiae brief, in support of the appeal by the Access to Justice Clinic, was presented by the Clinical Law Program to the highest court in Maryland, the Court of Appeals. This brief, supported by 83 law school faculty members from the Universities of Maryland and Baltimore, addressed the controversial issue of the right to counsel during all stages of a criminal proceeding. The brief posed the question of criminal defendants having a statutory right to representation at the initial appearance. It argued that in the case of McCarter v. State, the court stated that defendants had the explicit right to representation that “extends to all stages of in the proceedings” regardless of whether the stage has been determined to be a “critical stage.” Because the majority of the accused are indigent, lacking the ability to advocate for themselves, the need for legal representation is paramount. The brief addressed this issue requesting the overturning of the ruling in the Circuit Court, and to find that criminal defendants have the right of representation that extends to all stages of the proceedings in particular the initial hearing.

With the previous case making a progressive step towards the goal of evenhanded justice in the legal system, the clinic presented another amicus curiae brief regarding the case of Juan Rivera v. State of Maryland. Supported by 39 law school faculty members from the Universities of Maryland and Baltimore, this brief addresses the issue of the voluntariness of a guilty plea entered by a non-citizen immigrant in a criminal case. The defendant was assured by his attorney, the prosecutor, and an Immigration and Customs Enforcement attorney that his guilty plea would not...
lead to his deportation. However, the plea ultimately led to his deportation proceeding. The brief questions the ruling of the Court of Special Appeals of Maryland that the Petitioner’s guilty plea was voluntary, and argues that the plea was not voluntary because it was based on misinformation. The brief asks for a reversal in the decision of the lower court, and for a grant of a petition for a writ of coram nobis.

The third amicus curiae brief, regarding the case of Robert Calvin Brown III v. The State of Maryland, addresses Maryland’s problem-solving courts and their supposed lack of fundamental jurisdiction. The brief not only supports the constitutionality and statutory legitimacy of problem-solving courts in Maryland, but also proves through multiple documents and constitutional articles that the specialized dockets are constitutional. The brief concludes by not only placing its confidence in the problem-solving courts, but also proving and supporting the constitutionality of them in Maryland.

The clinic then decided to present a fourth amicus curiae brief. Scott A. Speer v. The State of Ohio addresses the issue of citizens with hearing impairments acting as jurors in a court of law. The brief argues that a juror with a hearing impairment should not be dismissed unless the juror cannot fully participate and give the defendant a fair trial. The brief relies on the Americans with Disabilities Act, Rehabilitation Act, and the Ohio Rules of Superintendence for the Court of Ohio requiring the inclusion of people with disabilities in the judicial process. The brief concludes that since there was no evidence at the time that the juror could not fully participate, the inclusion of this deaf juror in this case was both legal and constitutional.

In a second disability rights case, clinic students submitted a fifth amicus curiae brief to the U.S. Court of the Appeals for the Ninth Circuit on behalf of the National Association of the Deaf and other public interest organizations. The brief urges the Court to reverse the Arizona district court decision, Arizona ex rel Goddard v. Harkins Amusement Entertainment, which held that the Americans with Disabilities Act (ADA) and Arizona state law did not require movie theaters to provide captioning for deaf and hard of hearing individuals. The brief explains that Title III of the ADA, which covers places of public accommodation including movie theaters, requires public entities to provide equal access to aural information and provide reasonable modifications to its disabled patrons. The brief argues that existing captioning technologies constitute “reasonable accommodations” and do not pose an undue burden for defendants, nor do they fundamentally alter the nature of movie theaters’ services.

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Five amici curiae briefs in a year’s time is not only an unprecedented feat for the entire Clinical Law Program—accomplished only through the dedication and hard work of faculty and students—but also marks a continuous pursuit by the clinic to ultimately reach true justice in the legal system. Addressing issues from immigration to individuals with disabilities participating in a jury, the clinic strives to take on a wide spectrum of cases and ultimately keep the balance of justice in the legal system. The clinics not only look to continue to improve on their accomplishments, but to raise and address new issues facing today’s legal systems and work to make the right choice. The pursuit of justice in the legal system is paramount and the clinic students and faculty in the School of Law strive to pursue that goal.

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Juvenile Law Clinic Helps Baltimore Students
Lend a Hand in New Orleans

By Jeff Raymond, UMB Office of External Affairs

Instead of another spring break spent kicking around East Baltimore, four teenagers from the Baltimore Freedom Academy high school will spend a week helping others in New Orleans. It took the creativity of their teacher, Veronica Berruz, and Susan Leviton, JD, professor at the University of Maryland School of Law, to help make the trip happen.

Berruz is herself a third-year student in Leviton’s Juvenile Law, Children’s Issues and Legislative Advocacy Clinic. As part of her clinic duties, Berruz is teaching a class in activism at the Baltimore Freedom Academy, a small, public high school with a focus on leadership and social justice. While discussing the idea of using their spring break to participate in community activism instead of the typical down time, Berruz and the students explored the possibility of a trip to help continue the post-Katrina rebuilding process.

The high school students under Berruz’s leadership studied the needs of the post-Katrina community in New Orleans and developed a plan of how they could help. They then created a budget and wrote a grant to the Baltimore-based Aaron Straus and Lillie Straus Foundation Inc. Leviton and Berruz led the students through their presentations to Jan Rivitz, the Straus Foundation’s executive director, and she agreed to help fund the work.

The money will cover the costs of four students in the eight-student class who met Berruz’s standards of behavior, attitude, and class participation, to be allowed to make the trip. “If this is something that you’re interested in, show me,” Berruz challenged her students. “Demonstrate it.”

Thousands of Americans, including dozens of Maryland law students, have gone to the Gulf Coast to help rebuild and restore what the storm took just a few hours to wash away in August of 2005. But many of the students in Berruz’s class have seldom left East Baltimore, so for them the trip will be eye-opening in many ways.

Leviton said she hopes the trip will help the students see that, while their own neighborhoods might be rough, other Americans live among utter devastation. Experiences like this, she said, will help the teenagers develop the sense of empathy that leadership and social justice require.

Berruz said working to rebuild houses and communities, side by side with the people who will live there, is both humbling and inspirational. And people who live in the areas devastated by the storm are always so thankful for the help of the volunteers, she added, the students will feel good about their efforts and the fact that they can make a difference.

“If this is something that you’re interested in, show me,” Berruz challenged her students. “Demonstrate it.”
“You are the only family I have, you are the only hope I have,” my client said to me through a glass partition at the correctional facility where he has been held for the past year. Never had I felt so much responsibility and determination as I did that day. It was the first day I understood what it meant to be an attorney.

Before entering law school, *Law and Order* and personal anecdotes developed my idea of the legal profession. During the first year of law school I was stripped of this caricature and taught to “think like a lawyer.” The Socratic Method compelled me to stand in the shoes of the defense attorney, judge, or Congress and unravel theories, reasoning, and intent. As the learning curve leveled, I began to understand the role of an attorney, but my perspective was still distant. The day I met my first client, I remembered why I came to law school in the first place. I came to law school to learn the tools to effect change, stand up for the voiceless, and bring justice to light. The University of Maryland’s clinical law program allowed me to renew these aspirations. As a student attorney in the Immigration Clinic, I was no longer the peaceful observer, I was the voice. Classes equipped me with the skills to be an attorney, but the practical experience offered in clinic provided me with the forum to implement them.

As a student attorney I have experienced bureaucracy, the criminal justice system, and tangled immigration law. I have been a shoulder to cry on and a firm voice of reason. I have listened to the most private details of a stranger’s life and presented a judge with an objective depiction of that story. As the Student Co-coordinator of the Maryland Immigrant Rights Coalition, I worked to provide unrepresented individuals access to justice through an attorney consultation and referral program. I have discovered the imperfections of the current immigration law and witnessed the injustices resulting from this broken system.

Before starting clinic I knew nothing about immigration law. Within six months I have learned not only about this field of law, but I have gained confidence in my abilities as a lawyer. As student, we sometimes forget the fact that the law in many ways can determine the course of an individual’s future. We all live by the law, but some people are defined by it. My clinic experience has taught me that the text of a statute is not just amorphous rhetoric we read in a casebook, but rather words which can shape a life. As my clients floated between the lines of permanent resident, asylee, undocumented alien, and convicted felon, it was my job, as their attorney, to see the connections and disconnects of the law. In the midst of finding their place in the system I discovered my own inner strengths and passion for the law. Experience truly is the greatest teacher.
In the early 1970s, the students, in the spirit of the times, were demanding that Maryland Law School respond to the 20th century, for example, by adding civil rights, practice, and justice courses to the curriculum. They had a demonstration to make their point. There was one clinic at the school: the Juvenile Clinic that Peter Smith and Michael Elder co-taught. The students wanted more, and I got hired in 1974.

So I met with the dean, who I soon learned may not have been as enthusiastic about my hiring as the students and I were. He said “what do you think you can teach?” I told him that I had done civil rights and constitutional litigation and a broad poverty law practice, as well as some criminal defense work, so I thought I could teach civil procedure, constitutional law, trial practice, criminal law or procedure. He said, “We need a Contracts teacher, so you are teaching Contracts, ok?” I said, “fine.” He said, “your office is in the Nursing School.” (I’m not making this up, I promise.) I said, “ok.” He said, “you have a phone.” I said, “that’s good.” When I got to my office in the Nursing School, I found that the phone was all I had in the office, along with a nice wall-to-wall carpet.

Within a year, we had a new dean, Michael Kelly. He became a strong supporter of clinical education and began the process of building the school into one of the best public law schools in the country.

We began by looking around for grants. We got a grant from the federal department of Health, Education and Welfare, to create a developmental disabilities clinic. H.E.W. was interested in protecting the rights of the disabled. We were interested in doing that and in teaching law students with those experiences. In 1976, in partnership with Piper & Marbury, then one of the biggest law firms in Maryland, we created the Legal Services Clinic. (Piper & Marbury now is part of DLA Piper, one of the biggest law firms in the world.) Piper and Marbury funded the office (up on Paca Street), I directed it, and 30 or more associates a year did pro bono work through it. Rick North, who came to the school through that clinic, later became our clinical director for many years.

In phase two, Dean Kelly and the faculty decided that we ought to add several tenure track and tenured clinical teachers to the program. So we hired three new clinical teachers, including Clint Bamberger, who became our clinical director. Clint was terrific. Under his regime, the law school decided to bring the different, geographically disbursed clinics into the law school, and Clint, and later Rick North, helped to meld them into a single law office, albeit with substantially autonomous, different specialty practices.

In sum, in phase two, we added tenure track and tenured clinical teachers to contract and grant-funded clinical teachers and brought the program in-
house. The clinical courses, however, remained largely isolated from the mainstream curriculum.

Phase three began with the watershed moment, at least, if this is not an oxymoron, the “first” watershed moment. It occurred in response to a recommendation of the Cardin Commission, an access to justice commission chaired by now Senator Ben Cardin, in 1987. The Commission’s focus was the inability of low-income people to obtain needed civil legal assistance. The Commission recommended a series of steps to enhance legal assistance, aimed at every segment of the civil justice system. They recommended that the state’s law schools take two steps: require law school clinical experience in providing civil legal assistance to the poor as a condition of graduation, and increase the emphasis of law school education on the attorney’s professional responsibility to serve the poor and other unrepresented groups. The challenge to us was to integrate the delivery of legal services and teaching—of theory, professional responsibility, special components of poverty law, and justice.

The next step by the Commission, led by Ben Cardin and Rick Berndt, made the recommendation to the State’s law schools real. They met with Governor William Donald Schaefer and asked for and received his commitment to provide $500,000 to each law school if it accepted the Commission’s challenge. So the question became, do we want to take the $500,000 and do this? The “this,” in our view, being imposition of a requirement that, as a condition of graduation, each student would provide civil legal assistance to the poor and learn about his or her professional responsibility to serve the poor and other unrepresented groups.

The question engendered a fascinating debate, with faculty on both sides of the issue. It compelled us to think about how we would design a mandatory clinical education program. Dean Kelly provided strong support for a mandatory experiential program. He pointed out later that the Commission recommendation “was wind behind our sails,” encouraging us in a direction in which we were already headed. He sent Alan Hornstein and me to Yale, and then to N.Y.U. to talk about possible models for our program. Eventually, the faculty decided that the way to meet the Cardin Commission’s challenge largely was to integrate theory and practice through a new hybrid model, neither wholly clinical nor wholly classroom.

We decided to mainstream experiential education by putting it in the second and third semesters of legal education. We would add experiential components, in the first year, to torts, property, contracts, civil procedure, and/or criminal law courses. It was critically important to us that the experiential component go into the second semester. It should be viewed the same way that the school viewed the other required curriculum, as essential and part of the core curriculum.

So we decided the way to implement the Cardin Commission’s recommendations was to take better care of the students’ hearts in the first year and second year, and to introduce their hands to the work of lawyers, by mainstreaming experiential education and introducing our students to poor people and the role of being responsible in the early parts of their legal education. The goal was, in Dean Kelly’s words, to have “a transformational” effect on the students.

This also, we thought, would improve the quality of the classroom education—challenge the student’s heads as well—by using experience to critique theory and by introducing a real-world, critical legal studies component into the core curriculum.
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Patricia Campbell

Presenter, “Intellectual Property Rights and Legal Attacks on Counterfeit Goods” at the Symposium on Avoiding, Preventing and Detecting Counterfeit Electronic Parts, Center for Advanced Life Cycle Engineering (CALCE), A. James Clark School of Engineering, University of Maryland (September 9, 2008).


Presenter, “Current Issues in Intellectual Property Law” at Montgomery College, Germantown, Maryland, at the invitation of Professor Jacqueline Middleton, Chair of the Department of Accounting, Business, Management and Legal Studies, and Dr. Robert G. Snyder, Director of the Macklin Center for Entrepreneurship at Montgomery College (November 24, 2008).

Doug Colbert


Presenter, “Promoting Human Rights and Fulfilling the Bar’s ‘Special Responsibility to Justice,’” AALS Conference (January 7, 2009).

Presenter, “Professional Identity in the 21st Century,” University of Maryland School of Law, Baltimore, Maryland (March 6, 2009).

Kathleen Dachille


Presenter, “I’m Just a Bill’: The Maryland Legislative Process and Tobacco Control Legislation in Maryland,” TRASH (Teens Rejecting Abusive Smoking Habits) Annual Conference, Frederick, Maryland (January 11, 2009).

Testimony before the Prince George’s County Council in Support of County Bill 47 Regulating Cigar Sales, Upper Marlboro, Maryland (November 17, 2008).

Testimony before the Prince George’s County Council in support of County Bill 47-2008, Health, Education and Human Services Committee, Upper Marlboro, Maryland (October 16, 2008).

Rena Steinzor


Ellen Weber

Panelist, “Disability Discrimination and Health Privacy Standards,” University of Maryland School of Medicine, Addiction Psychiatry Fellows Forum, Baltimore, Maryland (December 22, 2008).

In Practice

are laying off associates by the thousands across the country and IOLTA funds are bottoming out, so that legal services organizations are freezing or reducing staff. How do we prepare our academies to respond to the students whose families are suddenly de-stabilized due to the economic tsunamis that are rocking the world?

You will read about many wonderful things that have been happening in our clinical law program over the past six months. The work that students have been doing is impressive and exciting. You will read excerpts from Michael Millemann’s presentation on the history of the clinical program at Maryland. From this, we can sum up lessons that will help us answer some of the questions about our role in today’s environment and today’s academy. We are the bridge to the outside world for our academy. Clinicians across this country are responding to the crisis. We will be sharing our experiences and lessons over the years ahead.

Best Practices
Continued from p. 1

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Comments and Letters should be forwarded to the attention of the Managing Director.