

HERDING CATS: ROLE AMBIGUITY, GOVERNANCE, AND LAW SCHOOL CLINICAL PROGRAMS

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INTRODUCTION

It has been said that a leadership role in many institutions is akin to herding cats.¹ Herding cats is “an idiomatic saying that refers to an attempt to control or organize a class of entities which are uncontrollable or chaotic. [It] [i]mplies a task that is extremely difficult or impossible to do, primarily due to chaotic factors.”² In popular culture, the term appears as the title of a play in which the characters are described as “negotiating intimacy and distance,”³ and part of a title of a book about the work of international peace

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1. *See generally* WARREN BENNIS, *MANAGING PEOPLE IS LIKE HERDING CATS* (1997).
2. *Herding Cats*, WIKIPEDIA, http://en.wikipedia.org/wiki/Herding_cats (last visited May 15, 2012). *See* Jennifer A. Kingson, *The Next Best Thing to Herding Cats*, N.Y. TIMES (Nov. 18, 2011), http://www.nytimes.com/2011/11/19/sports/in-feline-agility-competitions-the-biggest-obstacle-can-be-the-cat.html?_r=1&pagewanted=all (describing feline agility competition in which the “contestants sometimes lie down in the middle of the field, unmotivated and bemused”).
3. LUCINDA COXON, *HERDING CATS* (2011) (nominated for a Theatre Award UK for Best New Play).

mediators.⁴ Perhaps nowhere is this idiom more true than in academia, where power is diffuse and shifting, and autonomy is one of its most highly regarded values.⁵ If this idiom applies to academia in general, how does it apply to legal education, and more specifically, to the role of directors of law school clinical programs?

This essay offers some observations from my two-year stint (from 2006 to 2008) as the director of the clinical program at American University's Washington College of Law and some thoughts on the role of clinic directors in general. When I use the term "clinic director" in this piece, I am describing the more "traditional" form of the position in which an individual has oversight responsibility for an in-house, "live-client" clinical program, but not the broader array of programs that comprise experiential education.⁶

Moreover, directors of individual clinics within a larger clinical program may share some of the role characteristics of the director of the overall clinical program, but my observations are most relevant to colleagues who direct the overall program. Not every law school has a director of their overall clinical program. Recent data compiled by the Center for the Study of Applied Legal Education shows that of the 156 law schools that reported having live-client clinics, 58% of the schools assigned oversight responsibilities to a single individual.⁷

4. CHESTER A. CROCKER, FEN OSLER HAMPSON & PAMELA R. AALL, *HERDING CATS: MULTIPARTY MEDIATION IN A COMPLEX WORLD* (1999).

5. GEOFF GARRETT & GRAEME DAVIES, *HERDING CATS: BEING ADVICE TO ASPIRING ACADEMIC AND RESEARCH LEADERS* (2011); Luanna H. Meyer & Ian M. Evans, *Motivating the Professoriate: Why Sticks and Carrots Are Only for Donkeys*, 15 HIGHER EDUC. MGMT. & POL'Y 151, 160 (2003); Minerva Cheevy, *Advanced Faculty Wrangling Techniques*, CHRONICLE (Sept. 23, 2011, 9:05AM), <http://chronicle.com/blognetwork/researchcentered/2011/09/23/advanced-faculty-wrangling-techniques/>.

6. The Center for the Study of Applied Legal Education (CSALE) defines an "in-house, live-client clinic" as a program in which "students represent actual clients (individuals or organizations), are supervised by an attorney who is employed by the law school (faculty, adjunct, fellow, staff attorney, etc.), and the course includes a classroom component." See DAVID A. SANTACROCE & ROBERT R. KUEHN, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., *THE 2010–11 SURVEY OF APPLIED LEGAL EDUCATION* 2 n.5 (2012) [hereinafter *CSALE 2010–2011 SURVEY*], available at <http://www.csale.org/files/CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf>.

The same person might oversee both clinics and field placement programs, *id.* at 6, which are "externships or internships (typically off-site) that are field supervised by persons not employed by the law school for which students receive credit and may or may not include a classroom component." *Id.* at 3 n.6. Together, CSALE defines these as "applied" legal education. *Id.* at 1–2. For a discussion of the role of an associate dean for clinic and a wider array experiential programs, see *infra* notes 84–106.

7. *Id.* at 6, 7.

My observations are very much affected by the particulars of my law school's program, our "model" of the director position, and my own experiences, but I hope that this essay speaks more broadly to the experience of other clinicians. There are likely as many different types of directors as there are clinical programs.⁸

My aim is to describe some features of the job of a law school clinical director, both the position that I held and some features that are common to other positions, and to highlight some of the choices that are involved in constructing the role of director and performing the job. I am writing on a clean slate. Hundreds of articles have been written by law school clinical teachers on the role of lawyers vis-à-vis their clients and clinical teachers vis-à-vis their students.⁹ In this potent mix of lawyering theory and clinical pedagogy, there are no published articles discussing in any detail the role of directors of clinical programs,¹⁰ the programs that provide legal services to clients and legal education to law students. The survey conducted in 2010 and 2011 by the Center for the Study of Applied Legal Education is an invaluable resource for data concerning many features of clinic program design and structure in 163 law schools, including whether law school clinics are headed by traditional clinic directors or associate deans, but it does not address in any detail the role and responsibilities of clinic directors.¹¹

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8. *See id.* at 11–12, 15–20, 25–30 (suggesting a variety of job titles for individuals with oversight responsibility for clinics and their varying responsibilities).
 9. Many of these articles have been published in the CLINICAL LAW REVIEW, a semi-annual peer-edited journal "devoted to issues of lawyering theory and clinical legal education." *A Journal of Lawyering and Legal Education*, NYU SCHOOL OF LAW, <http://www.law.nyu.edu/journals/clinicallawreview/index.htm> (last visited May 15, 2012). The website indicates that "[t]he Review is jointly sponsored by the Association of American Law Schools (AALS), the Clinical Legal Education Association (CLEA), and New York University School of Law." *Id.* Professor J.P. "Sandy" Ogilvy publishes an invaluable bibliography of clinical scholarship, published in the CLINICAL LAW REVIEW and elsewhere, which can be found on the website of the Catholic University of America, Columbus School of Law. J.P. Ogilvy, *Clinical Legal Education: An Annotated Bibliography*, CATH. U. AM., <http://faculty.cua.edu/ogilvy/Biblio05clr.htm> (last visited May 15, 2012).
 10. A few articles briefly mention the work of clinical directors. *See, e.g.*, W. Warren H. Binford, *Reconstructing a Clinic*, 15 CLINICAL L. REV. 283, 292–93 (2009) (describing the change in faculty status of the clinic director at Willamette University College of Law).
 11. CSALE 2010–2011 SURVEY, *supra* note 6, at 6 (questions 9 & 10). The report did note one aspect of the role of clinic directors; the fact that at 1.2% of reporting schools the clinic director or clinic associate dean hired full-time clinic faculty. *Id.*

This essay provides the opportunity to reflect on why clinical scholarship has not addressed questions about the role of clinic directors and different ways that those roles might be constructed. The job of clinic director presents multiple opportunities to think about the question of role. While in the nonclinical legal academy the question of role is less prominent, in clinical scholarship the question of role is paramount.¹² There exists a vast body of clinical literature on role—the role of lawyers and the role of clients, as well as the role of clinical teachers vis-à-vis their students, and to a lesser extent, the role of law students in clinical programs.¹³ While the first subject is broadly described as lawyering theory,¹⁴ the second and third subjects form the heart of clinical pedagogy. Indeed, it is the focus on role that some have argued most distinguishes clinical legal scholarship from other types of legal scholarship.¹⁵

In this mountain of scholarship, nothing has been written about the leadership role of developing and running clinical programs. Much has been written about the substance of those programs¹⁶ and the advantages and disadvantages of different types of clinics, both for the clients served and the students who participate in those clinics.¹⁷ There is an increasing emphasis on how to measure the success of law school programs in terms of outcome measures,¹⁸ a move that has occurred in other academic settings.¹⁹ Yet the ways of leading or managing those programs is largely absent from the discussion.

In the first part of this essay, I describe my experience as a clinical program director. A reluctance to tell personal work stories is perhaps one of the reasons why so few academics write about their

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12. See Stephen Ellmann, Isabelle R. Gunning & Randy Hertz, *Foreword: Why Not a Clinical Lawyer-Journal?*, 1 CLINICAL L. REV. 1 (1994).
 13. See, e.g., Robert Rader, *Confessions of Guilt: A Clinic Student's Reflections on Representing Indigent Criminal Defendants*, 1 CLINICAL L. REV. 299 (1994) (describing the experience of a student in the Harvard clinical program).
 14. See generally Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369 (2005) (referring to lawyering theory in the context of client-centered advocacy).
 15. See Peter A. Joy, *Clinical Scholarship: Improving the Practice of Law*, 2 CLINICAL L. REV. 385, 386–87 (1996).
 16. See Ogilvy, *supra* note 9.
 17. See, e.g., Ian Weinstein, *Teaching Reflective Lawyering in a Small Case Litigation Clinic: A Love Letter to My Clinic*, 13 CLINICAL L. REV. 573 (2006).
 18. See A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REPORT OF THE OUTCOME MEASURES COMMITTEE 16–20 (2008).
 19. See *id.* at 20–46 (discussing how outcome measures are used in allopathic medicine, architecture, osteopathic medicine, and engineering education).

own experiences in their own institutions,²⁰ and those who do write in highly laudatory terms.²¹ In contrast, writers of personal memoirs are rarely loath to recount intimate and often emotionally charged experiences with friends and family.²² As one of my colleagues once wryly noted, “no one should have the misfortune to know an author of a memoir.” So instead, I recount some experiences that I hope will ring true to the experience of other law professors who have worked as clinic directors, and will provoke thought about the dimensions of the role.

This essay is about the *process* of working as a clinic director and the relationships that are involved. The *substance* of the different components of the job is not the focus of this essay. For example, while administering a clinic budget is an important aspect of a clinic director’s role, the details of managing a clinic budget is not addressed in this paper. Yet it is worth noting some of the basic features of the job of a clinic director. These include, in addition to budget responsibilities, hiring and managing staff, developing and implementing clinic administrative policies, convening clinic faculty on curriculum development and other issues affecting legal education (both within the law school and more broadly outside), seeking support for clinicians to write scholarship, serving as a sounding board for students enrolled in the clinic, being the “face” of the clinic at various law school and other functions, and working as a liaison between the clinic and the law school administration, among other things.²³ Some of these responsibilities are unique to running a law

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20. One notable exception is Peter H. Huang, *Tiger Cub Strikes Back: Memoirs of an Ex-Child Prodigy About Legal Education and Parenting*, 1 BRIT. J. AM. LEGAL STUD. (forthcoming Oct. 2012) (describing how a law school associate dean gamed the U.S. News and World Report law school rankings). Others write critiques that are real life examples described as “fiction.” See, e.g., Richard Delgado, *Rodrigo's Fifth Chronicle: Civitas, Civil Wrongs, and the Politics of Denial*, 45 STAN. L. REV. 1581, 1581 n.1 (1993).
 21. See, e.g., Binford, *supra* note 10.
 22. See, e.g., JOAN DIDION, *THE YEAR OF MAGICAL THINKING* (2005) (describing in painful and eloquent detail her memories of her deceased daughter and spouse).
 23. One posting to the clinic listserv lists the duties as including “overall responsibility for budgets, insurance, externships, additional semester clinical experiences, pr, fundraising, and promotion of the clinics in both the community and with the overall faculty.” Posting of Carrie Hagan, chagangr@iupui.edu, to lawclinic@lists.washlaw.edu (Sept. 15, 2010) (on file with author).

office²⁴ and others are relevant to the larger academic setting of the law school and legal education.²⁵

In the second part of this essay, I use these experiences to discuss the role of clinic directors more generally and to make some observations about what the role of the clinic director might look like in the future. This part of the essay is structural in focus and does not address other critical issues, such as political interference with the lawyering work of clinicians²⁶ and security of position, that have had a major impact on some clinical programs, and consequently, the work of a director.

I discuss some basic features of the process of selecting clinic directors. What are the various ways that a director might be selected? Are the positions short-term, long-term, or term-limited in any way? What difference does it make in how the role is performed? Are there generational differences that are of any interest in this role? What are the implications of the move in many law schools to give clinical directors the status of an associate dean, often referred to as an “Associate Dean for Clinical Education,” sometimes with the additional descriptor “and” coupled with terms such as “experiential education,” “public interest,” or “pro bono programs.” This practice has become increasingly common and can have a major impact on the role of the director.²⁷

Much of what I write here is descriptive, but I hope that this essay will help others in thinking about the roles that they play—or might later play—in their own institutions. Because of the size of the program at American University—both in terms of the number of faculty teaching in the clinic and the number of students enrolled²⁸—

24. See Peter A. Joy, *The Law School Clinic as a Model Ethical Law Office*, 30 WM. MITCHELL L. REV. 35, 42–44 (2003) (describing the ethical responsibilities of a clinical law firm).

25. See James C. May, *Hard Cases from Easy Cases Grow: In Defense of the Fact- and Law-Intensive Administrative Law Case*, 32 J. MARSHALL L. REV. 87, 90 (1998) (discussing the clinic director’s role in developing the overall goals of the clinical program).

26. See, e.g., Peter A. Joy, *Political Interference with Clinical Legal Education: Denying Access to Justice*, 74 TUL. L. REV. 235 (1999–2000) (describing Louisiana’s efforts to punish Tulane’s clinics for suing a chemical plant); Annie Linskey & Timothy B. Wheeler, *Lawmakers Threaten to Stall UM Funding over Poultry-Farm Lawsuit*, BALT. SUN (Mar. 27, 2010), http://articles.baltimoresun.com/2010-03-27/news/bal-md.clinic27mar27_1_poultry-giant-perdue-farms-law-school-clinic (describing how lawmakers attempted to punish University of Maryland’s environmental law clinic for suing poultry farmers).

27. See *infra* notes 92–106 and accompanying text.

28. See *infra* notes 32–35 and accompanying text.

it may be that the observations in this essay are most applicable to other large clinical programs. Directing a clinical program at a small law school with two or three faculty likely presents different challenges, as does directing a program in which faculty are not fully integrated with those faculty teaching in other parts of the curriculum.²⁹

One audience for this essay is clinicians who have served or are serving as directors, while another is clinicians who are rising through the ranks of clinical program seniority and might want to serve as directors. Another audience is legal academics or others interested in issues of academic administration more generally. As a colleague at another school once noted, perhaps sarcastically, administrative service “is one of the particular delights of academia.”³⁰ If this is so, what is the job of a clinic director, and who might want to do it? What is it about academic administrative work that makes it interesting, challenging, frustrating at times, and worth doing?

I. MY EXPERIENCE

The clinical program at American University’s Washington College of Law began in 1972. We are a large clinical program.³¹ We currently have twenty-four faculty members teaching in the program.³² The majority of our faculty is in tenured, tenure-track, or long-term contract positions. We also have a large practitioner-in-residence program, one part-time supervising attorney, and one adjunct professor.³³ Visiting professors occasionally replace faculty who are on sabbatical or fill another existing clinic need.³⁴ The

29. See Binford, *supra* note 10, at 300 n.105 (discussing the different types of status afforded to clinical teachers); CSALE 2010–2011 SURVEY, *supra* note 6.

30. *Everyday Misogyny—Just a Hypothetical on Administering a Clinic*, CLINICIANS WITH NOT ENOUGH TO DO (Jul. 16, 2008, 10:41 AM), http://kotplow.typepad.com/clinicians_with_not_enough/2008/07/everyday-misogy.html.

31. The clinical program at American University is ranked number two in the most recent U.S. News and World report rankings. *Best Law Schools: Clinical Training*, U.S. NEWS & WORLD REP. (2011), <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/clinical-training-rankings>. The program has been in the top five every year since clinical programs have been ranked, with the exception of the first year.

32. See *Faculty by Clinic*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical/faculty.cfm> (last visited May 15, 2012).

33. See *id.*

34. While the number of faculty in these positions remains fairly constant, the mix of practitioners-in-residence, visitors and supervising attorneys varies from year-to-year.

faculty who teach in the clinic have the clinic as their primary teaching responsibility but also teach other courses in the law school curriculum. The law school does not distinguish in status between tenured and tenure-track clinicians teaching in the clinic, and those tenured and tenure-track faculty members who teach other courses. In this sense, our law school's faculty is integrated across the clinical and nonclinical curriculum.

Approximately 240 students are enrolled in our clinical program each year.³⁵ With the exception of one clinic, all of these students represent actual clients and are supervised by clinic faculty.³⁶ The law school also has large externship and trial advocacy programs, and offers many other experiential learning opportunities.³⁷ At our law school, the clinic director leads the clinical program; our other experiential learning programs are run separately.³⁸

In our program, the clinical directorship has rotated between faculty currently teaching in the clinical program. At the inception of our program, our clinic director was the first (and only) clinician on the tenure track, and the first to achieve tenure. When he left this position sixteen years later to become the dean of our law school,

For example, when a clinician is on sabbatical, that clinician might be replaced by a visiting professor, a practitioner-in-residence, or a supervising attorney.

35. AMERICAN UNIV. WASHINGTON COLL. LAW, ANNUAL REPORT OF THE DEAN 2010–2011, at 3 (2011), *available at* <http://www.wcl.american.edu/dean/documents/11deansreport.pdf>.
36. Our prosecution clinic is a hybrid clinic in which students attend a seminar taught by an adjunct faculty member and work in local prosecutor's offices. *Criminal Justice Clinic*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical/criminal.cfm> (last visited May 15, 2012). In addition, some students attend the DC Law Students in Court clinical program, an off-site program in which students from different area law schools participate, and are supervised by staff attorneys in that program. *D.C. Law Students in Court*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical/dc.cfm> (last visited May 15, 2012).
37. *About the Washington College of Law*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/about.cfm> (last visited May 15, 2012).
38. These programs will be under one umbrella beginning in August of 2012. *See infra* note 84. *See Faculty by Clinic*, *supra* note 32 (indicating the clinic program director). Other experiential programs include an externship program and a trial advocacy program. *See Externship Program*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/externship> (last visited May 15, 2012); *Trial Advocacy Program*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/trial/> (last visited May 15, 2012). The law school also has projects that offer students experiential learning opportunities. *See, e.g., WCL's Impact Litigation Project*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/ilp/> (last visited May 15, 2012); *United Nations Committee against Torture Project*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/ilp/uncat.cfm> (last visited May 15, 2012).

there were no other tenured clinicians. Several clinicians had recently been hired in tenure-track positions, and the next clinic director was a tenure-track clinician. Since then, all of our directors have been tenured clinicians. Although the law school has not formally adopted a model of a “rotating” director, it has functionally been our model since our founding director left the position.

In order to account for the increased responsibilities of directing the overall clinical program, the clinical director is given a reduction in case supervision responsibilities and a stipend to reflect that the director has an eleven-month contract, rather than the nine-month contract that is typical of other full-time faculty. At the same time, the director is ineligible for summer research grants and additional course releases.

All of our directors have been appointed by the dean, in consultation with clinic faculty. The appointment of clinic directors has roughly followed seniority in the clinic, but this has not been a hard and fast rule. Our school has never conducted a search for a clinic director, and a director has never been appointed from outside of our program. The job is not designed to last for a set period of time—each director has served in the job for different amounts of time, and when he or she decided to step down, a new director was appointed.

After our first director stepped down after sixteen years, our second director served for eight years until 1996. Since that time, our program has had six different directors, including an acting director, and one colleague who returned to the directorship position after his first stint. None of these directors have been in the position for more than four years. Another way to view this trajectory is to note that our first two clinic directors served for a total of twenty-four years, while our next five directors (not including our acting director) served for a total of fifteen years.

When I became the clinical program director at American, I had been teaching in the program for almost twenty years, and I thought that I understood what my job would be. I had worked with four of the previous directors—all with different personalities and approaches to the position—so I knew that the job could be performed in a variety of ways. I also knew that the directorship had changed a great deal since I had started teaching at American University.

When I joined the program as a visitor from practice in 1988,³⁹ there were five tenure-track clinicians teaching in the clinic and one part-time supervising attorney. Approximately seventy students were enrolled in the clinic, and there were two clinic staff: an office manager and an administrative assistant. The clinic was located in a building on campus that was one block from the main law school building, but separated by a major thoroughfare. The building, known as the Cassell Annex, was built of aluminum and was a repurposed building, which had originally been built as temporary quarters to house members of the military during World War II. It resembled a wide trailer. Clinicians taught classes in the main law school building, but our offices were located in the annex.

At that time, the clinic was a small and intimate place. All of our meetings with students and with our clinic colleagues took place in the annex. While we interacted with the nonclinic faculty, our physical separation from the rest of the law school meant that clinicians spent most of their time with clinical colleagues. The six of us teaching in the clinic talked every day about teaching, scholarship, and our lives. We had four clinics at that time, and we co-taught clinic seminars with colleagues, not just with colleagues teaching in the same clinic, but in some cases, across clinics.⁴⁰ We had a practice—which continues to this day—of meeting weekly to talk about clinic administration and clinical pedagogy. Within a short period of time all of our full-time clinicians were in tenure-track positions, so we were all engaged in the common enterprise of teaching in the clinic as well as in the nonclinic curriculum, supervising students practicing law, writing scholarship, serving on committees, and doing other kinds of service.⁴¹ We discussed how to teach students about law and lawyering through the actual practice of law, and the practice of law in the context of different models of lawyering.

39. This is a position that we now refer to as a “practitioner-in-residence;” other law schools have similar positions and use various names, including “fellow.” See, e.g., *Clinical Graduate Fellowships*, GEORGETOWN LAW, <http://www.law.georgetown.edu/clinics/fellowships.html> (last visited May 15, 2012); CSALE 2010–2011 SURVEY, *supra* note 6 at 27.

40. See Binny Miller, *Teaching Case Theory*, 9 CLINICAL L. REV. 293, 333–34 n.94 (2002) (describing the joint seminar for the Women and the Law Clinic and the Criminal Justice Clinic, and later the Domestic Violence Clinic).

41. Cf. AMERICAN UNIV. WASHINGTON COLL. LAW, FACULTY MANUAL 26–33 (2005), available at http://www.wcl.american.edu/faculty/wcl_faculty_manual.pdf (describing the evaluation criteria for faculty and the requirements for achieving tenure).

In this process, we were creating a model of clinical legal education that was grounded both in theory and practice, and was one in which clinical teachers were both academics and practicing attorneys. Our program differed from the more practice-oriented programs at many other law schools.⁴²

My clinical colleagues and I were also an identity group within the larger society of the law school. We were very much a part of that larger society, but we defined ourselves both as autonomous individuals and as a group.⁴³ We were generationally very similar to one another—all of us were baby boomers—separated in age by no more than ten years.⁴⁴ Most of us were women. We were diverse in terms of sexual orientation, but we were not at all diverse in terms of race—all of us were white. Now, we are more racially diverse as well, and that is a significant change for the better.

In describing our program as it functioned more than twenty years ago, I do not mean to suggest that my clinical colleagues always agreed with each other, or that our professional relationships were always easy to navigate, either within the clinic or in the larger law school. But it was a time when law schools were smaller and legal education was less complicated.⁴⁵

Today, we are a large and diverse group of faculty, both in terms of race, ethnicity, sexual orientation, and other personal characteristics, and in terms of the different statuses we hold in the institution.⁴⁶ Despite our size, we remain committed to operating our clinical program under one umbrella. We have a single budget for

42. See generally Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1 (2000) (providing a comprehensive historical overview of the evolving interaction between legal academia, clinical legal education, and legal practice).

43. See generally Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 14 WOMEN'S RTS. L. REP. 297 (1992) (exploring the concept of "multiple consciousness," which is the ability to tap into varied backgrounds and experiences to achieve just outcomes).

44. There is an emerging literature about how generational differences affect the relationships between teachers and students. See, e.g., Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255 (2009).

45. See generally WILLIAM M. SULLIVAN ET AL., THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) (discussing the challenges faced by legal education today).

46. See *supra* notes 31–38 and accompanying text. A compilation by my colleague Elliott Milstein indicates that more than 100 faculty members or supervising attorneys have taught in our program (on file with author).

the entire clinical program; within this budget funds are not separately allocated to each clinic, but rather to functions that cut across clinics, such as supplies and litigation expenses. We have a single case management system for conflicts checking, and students across most of our clinics are considered part of the same law firm and share the same work space.⁴⁷

Perhaps most importantly, regardless of status, all of the clinicians in our program (including the director) directly supervise students in ongoing cases. Many tenured and tenure-track clinicians teach with practitioners-in-residence, but we have our own caseloads. Perhaps this feature, more than any other feature of our program, is the core identity that we share as clinicians in our program.

The subject matter of our clinics varies widely, the pedagogy varies less so, although there are differences.⁴⁸ Clinicians are committed to the value of a strong seminar and case rounds component in the clinic,⁴⁹ although the content differs.⁵⁰

From this description of our clinical program, then and now, two general themes shaped my time as the director: the ambiguity and complexity of the duties and the role, and the unpredictable nature of the time demands. Although I thought I understood the job of directing a clinic when I accepted it, and I expected these themes to emerge, I found that I was in many ways unprepared for the experience. In the process, I learned a great deal.

In terms of role, I understood the general contours of the components of the work, and I knew that my job was to make “it” all happen, with the “it” being fluid and changing with the circumstances. The director was not expected to reconceive the clinical program or create a new vision for the program. Our program was a successful program, with room for improvement, and keeping the ship afloat was a huge task.

47. *Conflicts of Interests*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical/conflicts.cfm> (last visited May 15, 2012). Our clinics in which students work with supervising attorneys in prosecutors' offices (Criminal Justice Clinic – prosecution and Domestic Violence Clinic) are the exception because their work puts them at odds with the work of students doing in-house criminal defense work.

48. *See The Clinics*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical> (last visited May 15, 2012) (describing the different clinics).

49. For descriptions of the classroom component of clinics generally, see Susan Bryant & Elliott S. Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education?*, 14 CLINICAL L. REV. 195, 196 (2007); Ann Shalleck, *Clinical Contexts: Theory and Practice in Law and Supervision*, 21 N.Y.U. REV. L. & SOC. CHANGE 109 (1994).

50. *See, e.g., The Clinics*, *supra* note 48.

The means of accomplishing the various components was less clear. As our clinical program had grown over the years, we had not discussed how the role of a director would change as the challenge of managing and coordinating the various components of our program magnified. Like many organizations, we lacked clarity about our organizational structure, the roles of individual clinicians, and a plan for how decisions would be made. We had particular practices, some of which had varied over time, but no articulated theory about the role of the director. As the job had evolved, and as it was practiced by my predecessors, the clinic director was not the “boss” of his or her clinical colleagues. In this respect, the clinic director was not the managing partner of the clinic “law firm.” Faculty teaching in the clinic established their own supervision practices with students, ranging from the responsibility allocated to students to file-keeping practices. The only person who the clinic director supervised was the program administrator, who in turn supervised the administrative assistants who supported the clinical and nonclinical work of clinic faculty, and the work of the law firm.⁵¹ My role was often unclear to students, faculty, and others in the law school, and sometimes to myself.

This role ambiguity was less pronounced in the aspect of the directorship that was more purely administrative in nature. With the assistance of clinic staff, I was expected to make certain things happen. Many administrative tasks were carried out by staff, with little or no involvement of the clinic director. Others were the topic of sometimes lengthy discussion. And, as any administrator knows, some tasks are quite substantive and in the case of the clinic, my colleagues cared about how these tasks were conceived and implemented.

The first agenda that I wrote for the first meeting of clinic faculty that I facilitated as the director included the following items:

1. Update on our project to improve access for limited English proficient clients (SCHLEP)
2. Clinic volunteers—recruitment and relationship to #1
3. Clinic alumni activities
4. Clinic informational materials

51. In our program, clinic staff do not work for students but provide administrative support. So for example, clinic staff do not prepare documents or mail letters to clients, but assist students with implementing the procedures in the student office manual. Our staff answer questions from students about office procedures, especially in the beginning of the semester.

5. Case management – AMICUS/Time Matters
6. Clinic submission for the Dean's report at faculty meetings
7. Schedule for weekly clinic lunches
 - Mondays?
 - Topics
 - Teaching collaboration—date?
 - The “what we do in our clinic” report: two sessions
 - How I teach “x”—discussion, video of successful/unsuccessful class/sample materials
 - Class visits to other clinic seminars: two sessions
 - Schedule for Monday meetings
 - Administrative

Because this meeting was the first meeting that I convened as the director, the topics did not include issues concerning legal education or clinical education more broadly, including participating in conferences or advocacy with entities such as the American Bar Association. These are topics that we often discuss in our Monday meetings and that clinic directors need to be knowledgeable about in order to lead programs.

At first glance, the tasks on the agenda instead look to be administrative. They include matters that can be categorized as law office management (case management systems), and broader services to clients (providing services to limited English proficient clients and recruiting student volunteers). Other agenda items were focused on a schedule for discussing pedagogy, including teaching collaboration and other subjects to students, and issues in clinic cases. Other items related to communicating with the law school community (reporting to the dean about clinic activities) or reaching beyond the law school (planning for alumni activities and revising clinic informational materials). But most of these items also have a substantive component that affects the clinic's delivery of services to clients, relationship with students, and connections with other parts of the law school and the broader community.

For example, the “Services to Clients Having Limited English Proficiency” (SCHLEP) project⁵² (#1) was created to help improve

52. The project won the Clinical Legal Education Association's (CLEA) Bellow Award, which “identifies, recognizes, and honors projects undertaken by clinical law teachers

the clinic's ability to represent clients for whom English is not their first language, and volunteers from the student body (#2) are recruited to help provide language interpretation and translation services, as well as investigative assistance, to clinic clients. Our case management system affects the clinic's delivery of services to clients, but it also affects our relationships with each other in the clinic. My colleagues agreed that Amicus, our case management system should be used for conflicts checking, but we differed on whether it was necessary for case management more generally. So while this seems to be an administrative issue, it is also an issue of autonomy for our various clinics, pedagogy, and the most effective way to supervise students.

Similarly, submitting items for the dean's report, clinic informational materials, and planning for alumni activities are administrative in nature, but they serve other important functions. The submission for the dean's report (#6) relates to the clinic's relationship with the larger law school community; it presents an opportunity to inform the community about clinic activities and achievements. The clinic informational materials (#4) and alumni activities (#3) are also communications with a wider community—the informational materials are designed to be shared with students⁵³ and mailed to faculty at other law schools and other organizations, while alumni activities involve outreach to former students. Alumni activities also present an opportunity to collaborate with an administrative office in the law school, the Office of Development and Alumni Relations.

The suggested topics for the clinic weekly lunches lay out a possible agenda for subjects that clinic faculty will talk about in our weekly collaborations. While creating the agenda is an administrative function that requires forethought, the topics are not purely administrative. The listed topics largely relate to the pedagogy of the clinic seminar and case supervision; the "administrative" topics are not listed but have often dealt with issues such as recruiting students to participate in the clinic. Our clinic

that reflect the ideals of Gary Bellow," one of the founders of the clinical legal education movement. *Notices*, CLEA NEWSLETTER (Clinical Legal Educ. Ass'n), Feb. 2007, at 4, available at http://www.cleaweb.org/Resources/Documents/clea_newsltr_0207.pdf.

53. See, e.g., *Frequently Asked Questions by Students*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <http://www.wcl.american.edu/clinical/faq.cfm> (last visited May 15, 2012) (giving general information about the clinic program, such as the nature of the program, the role of students, and how to apply for a spot).

recruitment process has a huge administrative component.⁵⁴ We use one application for all of our clinics. We process applications from many more students than we can accept and have a system for funneling those applications to the appropriate clinic.⁵⁵ Yet the process is substantive as well. We discuss the choices available in a world of limited resources in which the demand for live-client clinic experiences outstrips the supply.

In sum, the term “administrative” fails to capture the nature of many of the topics that we discuss as a group. In many programs, many of these topics might be delegated to a clinic director, who would in turn delegate the work to a staff person. In our program, there is at least the possibility that we will talk about everything. So one challenge of directing our program was that the discussion of “paper clips”—as one of my colleagues put it—could take away time from discussing other, more substantive topics. But there are paper clips and then there are paper clips, and our program has never had a clearly delineated process for determining which information needed to be provided to the group, or which decisions needed to be made by the group.

The ambiguity of my role was also evident in my relationship with the law school administration and faculty who taught outside the clinic. At the beginning of my term as the director, it was not clear to me whether I was a member of the dean’s management team,⁵⁶ a representative or advocate for the clinical program, or somewhere on the spectrum between those two roles. Clinical teachers tell their students that the contours of the lawyer’s role are critical.⁵⁷ The way that you define your role affects how you do your job; therefore, clarity about the role is critical.

My role was especially ambiguous in situations where the faculty or the dean expected me to speak for “the clinic” when in fact faculty teaching in the clinic had different views of what a law school policy

54. *See id.* (describing some of the administrative functions of the clinic such as the student selection and waitlist processes).

55. *See Academic Year 2012–13 Clinic Application*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, <https://www.wcl.american.edu/clinical/application/index.cfm> (last visited May 15, 2012) (allowing applicants to select which clinic(s) to apply to within the general clinic application) (on file with author).

56. While clinic directors are formally listed as members of the Dean’s management team, *see Office of the Dean: Senior Staff*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, http://www.wcl.american.edu/dean/sr_staff.cfm (last visited May 15, 2012), the functions involved are more complex.

57. *See Learning Goals*, AMERICAN UNIV. WASHINGTON COLL. OF LAW, http://www.wcl.american.edu/clinical/learning_goals.cfm (last visited May 15, 2012) (describing the learning goals of the clinic, from lawyering skills to solving ethical dilemmas).

or practice should be and there was no “clinic position.” One example is in the appointment of full-time, tenure, or tenure-track faculty, where the views of clinicians often differed, with respect to particular candidates for both clinical and nonclinical positions. Also, advocating for additional tenure-track positions for clinical positions, where there is competition with other curricular needs, can be complex. This second issue was not an issue that I dealt with during my time as a director, but for other directors, it has been a time-consuming and political project.

By the end of my term as the director, I had come to see myself more as a mediator or a translator than as an advocate. The time that I spent listening to the perspective of the law school administration on issues affecting clinic changed how I thought about some of those issues. It was easier for me to understand a different perspective.

Other faculty who hold administrative positions in the law school have more clarity about their roles. For example, faculty associate deans are members of the dean’s management team. Associate deans are also faculty members who teach, write scholarship, and perform service unrelated to their positions as associate deans.⁵⁸ But when they act as associate deans, they are members of the dean’s management team.

I have never worked as an associate dean and am likely oversimplifying the role. When there are conflicts or disagreements between the dean and a faculty member or a program, no doubt there are times when an associate dean feels pulled in more than one direction. Yet the contours of the role seem clearer than that of a program director.

In some respects, the role of a university department chair offers the closest analogy to a director of a law school clinical program. These positions also involve administrative responsibilities that are mediated through tenure colleagues, sometimes pose difficulties in finding members of the department who are willing to do the job, and involve complex relationships between leaders of programs or departments and the law school or university administration.⁵⁹

58. See Deborah J. Cantrell, *Can Compassionate Practice Also Be Good Legal Practice?: Answers from the Lives of Buddhist Lawyers*, 12 RUTGERS J.L. & RELIGION 1, 19 (2010) (describing the many faculty roles of an associate dean for academic affairs).

59. See, e.g., Richard Hartwig, *A Tiny Ring of Power: The Department Chair and Golden Rule Management*, 1 J. PUB. AFF. EDUC. 31 (2004); Michael T. Miller, *The Department Chair as Speaker of the House: Shared Authority in the Community College Department*, 23 COMMUNITY C. J. OF RES. & PRAC. 739 (1999); Aaron

Another aspect of the complexity of the role is that there were many unpredictable tasks and roles. There were other aspects of my role, such as managing relationships, that were completely predictable, in the sense that I expected to devote a lot of time to the work, but where the amount of time and energy required could not be predicted. And then there were other projects that could not have been predicted and that were immensely time-consuming. This unpredictability is hardly unique to the work of a clinic director—many faculty administrators are managing larger programs or entire law schools—but it was especially challenging to square with my concurrent work as a clinical teacher supervising students representing clients.

Uncertainty and ambiguity are key features of the aspect of clinical teaching that is grounded in direct supervision of students. The time demands are unpredictable. Clients and cases do not follow paths that are certain or predictable. A case that begins as a “simple” misdemeanor or minor felony can morph into a very complex case.⁶⁰ Clients living in poverty often have complex needs.⁶¹

Students enrolled in clinics are in the early stages of learning about how to be a lawyer. Their needs, too, are uncertain and unpredictable. They are learning new legal skills and values, and learning to be professionals. They are balancing clinic with many other obligations, and looking toward legal careers in an uncertain economy. Clinical teaching is immensely satisfying but at the same time the demands of direct supervision and mentoring are large. The relationships with students have an emotional dimension that is different from classroom teaching.⁶²

The daily demands of my work as a clinical teacher often came into conflict with the daily demands of my work as a clinical director. Court appearances and meetings with students is work that occurs daily in my life as a clinical teacher. When cases that I supervised blew up, as cases sometimes do, I helped students put out fires. I helped put out the fires that occurred in the clinic, and in issues

Wildavsky, *On Being a Department Chair*, 25 PS: POLITICAL SCI. & POLITICS 83 (1992).

60. See Clark D. Cunningham, *The Lawyer as Translator, Representation as Text: Towards an Ethnography of Legal Discourse*, 77 CORNELL L. REV. 1298, 1309–31 (1992); Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485, 539–52 (1994).

61. See Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107, 2131–36 (1991).

62. See Kathleen A. Sullivan, *Self-Disclosure, Separation, and Students: Intimacy in the Clinical Relationship*, 27 IND. L. REV. 115, 115–19 (1993).

involving the clinic in the larger law school. Being active on both fronts was a balancing act, and I often felt that I was not doing either job especially well. I was “betwixt and between” the job of a law professor and the job of directing a clinic, “neither wholly one thing nor another.”⁶³

Another factor that affects professional role is the roles occupied by other actors in the relationship or system. For example, a lawyer who practices traditional lawyering makes many decisions in a case, and clients are relegated to a more passive role.⁶⁴ Client-centered lawyering posits a more collaborative and active role for clients, which changes the role that lawyers play in making case decisions.⁶⁵ The roles occupied by clinic staff changed dramatically during the time that I directed the clinical program, and those changes had a major impact on my responsibilities.

When I first began the clinic directorship, our staff was led by a program administrator. The program administrator had administrative experience but did not have legal training. She had started as an administrative assistant for one of our clinics many years ago, and was then promoted to the position of office manager, which was, at that time, the highest level administrative position in the clinic. That position was then upgraded to the program administrator position.

By the time that I became director, the demands of the clinic, both as a law firm and as an academic program, exceeded the training and experience of our program administrator. With more than 200 students and hundreds of clients, we needed to add a staff person with more specialized legal training and experience. Several clinics at local law schools had adopted the model of a clinic associate director, a position designed for a lawyer who would manage the day-to-day operations of the law clinic.⁶⁶ Clinic faculty met over the course of a

63. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 174 (5th ed. 2011).

64. Robert D. Dinerstein, *Client-Centered Counseling; Reappraisal and Refinement*, 32 ARIZ. L. REV. 501, 504 (1990).

65. *See id.* at 506–07.

66. The clinical program at Georgetown University Law Center was one of the first to adopt this model of staff support by creating the position of an Assistant Dean for Clinical Programs at least as early as 2000. *See Nancy Cantalupo Appointed Assistant Dean for Clinical Programs*, GEORGETOWN LAW (Oct. 12, 2005), <http://www.law.georgetown.edu/news/releases/october.12.2005.html> (noting that Ms. Cantalupo succeeded a staff member who was appointed to this position in 2000). Currently, the Assistant Dean “administers many aspects of the clinical program, such

year and decided to ask the dean to approve a similar position for the clinic. When I started as director, the details of our proposal had not yet been worked out.

Nine months after I started as director, our program administrator resigned on short notice. The dean had approved our request to upgrade the position in concept, but we were still working out the details of the position. I had not written the position description, and at that point did not know the various levels of approval that were needed before the position could be advertised and an associate director hired.

Our program lacked a senior staff person until the clinic hired an associate director nine months later. During this period, I assumed the day-to-day responsibility of running the clinic. The law school was willing to help with resources—one of our administrative assistant positions was upgraded to include handling the finances of the clinic—but there were not a lot of other options for managing the clinic in the short-run. The position required some understanding of how the clinic operated, both as a law firm and as a program in the law school. The clinic could not hire someone for the existing position because the new anticipated position required a person with a very different background and set of skills. This period of limbo was an unintended consequence of the decision to move to a model that included an associate director.

The experience of directing the clinic under three administrative structures for senior staff—first with a staff person who had grown up with the program but had not had legal training, next with no senior staff, and finally with an associate director who had practiced law and had management experience—provided me with an understanding of the very real differences between these three structures. I learned that it is next to impossible—both in terms of time and expertise—to run a large clinical program without the assistance of an associate director who is a lawyer or who has other significant legal experience. In performing the hands-on job of administering the clinical program during the nine-month hiatus, I learned enough about what I did not know about managing a law clinic to realize that the job of directing a large program required significant and high-level support.⁶⁷

as the clinic application and enrollment process.” See *Student Services-Clinics Administration*, GEORGETOWN LAW, <http://www.law.georgetown.edu/clinics/clinicadmin.htm> (last visited May 15, 2012).

67. See generally *Faculty by Clinic*, *supra* note 32 (demonstrating that running a large clinical program requires a high level of support from people with different levels of experience).

The faculty teaching in our clinical program seek to function as a community of individuals committed to advancing clinical legal education within the larger world of legal education. While each of our clinics operates autonomously, we share ideas about different or better ways of teaching and different or better ways of serving clients. We are a bit of an anomaly within the larger framework of a law school that values community but where faculty work relatively autonomously. But as members of a community, we often disagreed. In fact, we likely had more reasons to disagree with each other than faculty whose orientation was more individualistic.

As our program grew larger, we knew each other less well. The experience of faculty teaching in our program ranged from thirty-eight years of clinical teaching to a few months of clinical teaching. The mix of tenured, tenure-track, and long-term contract faculty; practitioners-in-residence (similar to fellows in other programs); and part-time adjuncts makes us diverse in other ways. Each academic year, faculty come and go from our program. It is not unusual for us to have four or five faculty members leave our program, and have an equal number join us.

So I implemented some practices, and continued practices of other directors, that were designed for us get to know each other better. Our annual clinic retreats, held in the summer, provided opportunities to reflect on the past year and plan for the next year. These retreats, though, were often oriented toward planning, talking, debating, and discussing. I thought that we needed a way to step back and get to know each other outside of our work setting so that our intellectual energy and our dialogue did not subsume our relationships.

In planning my first retreat, I asked three of the newest faculty members to join a retreat planning committee. We decided to focus not just on our ideas, but on our relationships. One of my colleagues suggested an icebreaking exercise that he remembered from a retreat he had attended when he was a public interest lawyer. Each person at the retreat was asked to respond to the question “in high school, where were you most likely to be found” by writing the answer on a card. Then the cards were read out loud to the group and people guessed the identity of the writer. When we used this exercise at our retreat, the answers on cards revealed a lot about the individuals in the group, as did the guesses about the cards and the members of the group. As teachers, we use icebreaking exercises in our clinic classrooms, but sometimes overlook the principles of clinic pedagogy in our relationships with our clinic colleagues.

The next year, a new retreat-planning committee met. We assigned “art projects” in which we instructed everyone to create a

piece of art describing where they had been as a clinical teacher and where they were headed. We brought tape, paper, glitter, markers, scissors, confetti, and other art supplies, and asked participants to work in groups but to create their own project, and then present it. This exercise revealed deeply personal aspects of my colleagues' hopes and aspirations, and it assisted us in building stronger community ties.

Another important aspect of my work as a clinical director was my connection to the broader community of clinic directors. Every two years, at the annual clinical teachers' conference, the Association of American Law Schools (AALS) offers a day-long workshop for clinic directors.⁶⁸ For the past ten years, the clinical directors from several schools in the DC–Baltimore metropolitan area have met during the semester to discuss issues in common and to serve as a sounding board for each other. I joined this group when I became a director. We met over breakfast at a local restaurant in a rounds-type format.⁶⁹ We discussed the local student practice rules, summer coverage of cases, fellowship and practitioner programs, interactions with our colleagues, staffing problems, and the like. In the clinical directors' breakfast group, the question of the director's role vis-à-vis our faculty colleagues in the clinic was one of our most frequent topics of conversation. Most of us were using the group to figure out our roles—given the dearth of any writing on the question. Most of us were familiar with the role as it was performed in our own institutions, but not with the job of director in other institutions.

Perhaps most importantly, these meetings were a place to share ideas, and at times to complain about the challenges of mediating relationships. We shared stories about the seemingly small incidents that can speak volumes about the work of a director. One of my most memorable and early experiences involved a controversy among students about a dog in clinic workspace. In our program, all of the clinic students share workspace, and we are one law firm for purposes of conflicts checks and confidentiality. Space is not assigned to individual students; instead, space at the tables and work stations is available on a first-come, first-served basis. The clinic has a number of rules about the use of the space, including that non-service animals are not allowed. This rule followed the law school

68. See *Event Information*, ASS'N AM. LAW SCHS., https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=2011clehome&Reg_evt_key=dad1e1f2-9807-46f5-9f92-5cd25784e7bb&RegPath=EventRegFees (last visited May 15, 2012).

69. Bryant & Milstein, *supra* note 49, at 196 (describing rounds in a different context).

rule. Despite the policy, from time to time, students have brought dogs into the building—and into clinic workspace.

Like many issues that I addressed as a clinic director, this issue began as a complaint from several clinic students to our program administrator. They told our administrator that another student brought a small dog to the student room later in the evening after clinic staff and most faculty teaching in the clinic had gone for the day. The students said that at first they did not mind that the dog was in the room. She was playful, but quiet, and did not disturb their work. But that began to change when the dog barked a lot, started coming to the student room with its toys, and was seen urinating on the carpet. They asked the student who owned the dog to leave the dog at home, and she refused. The students told our administrator that they did not want the dog owner to know that they had reported these incidents to the clinic administration.

After receiving this report, our administrator went to the student room and documented evidence of the report about the dog: stains on the carpet, and a dog bone found in the middle of the room. She took pictures and sent them to me, outlining a plan to send an inflammatory email to all clinic students warning them that the law school and clinic policy was being violated. I suggested that she contact the students who had come to her with the information, ask them to provide the name of the student with the dog (with the promise that they would not be identified as providing the information), contact the dog owner, let the owner know that complaints had been received about the dog, and tell her that the dog should stay at home. No more dog bones—or dogs—were found in the clinic workspace.

Near the end of my service as the clinical director at American University, I participated with the members of the DC–Baltimore clinical directors’ breakfast group in a concurrent session at the annual clinical conference in Tucson, Arizona, sponsored by the AALS.⁷⁰ At the session, entitled “Directing? You Must Be Kidding: Leading a Clinic in Academia,” we created and presented a role play that reflected the realities of our work as clinic directors and the multiple constituencies that we served. The setting was “director rounds” where we discussed a complaint about a clinic faculty

70. The participants included Brenda Blom (Maryland), Deborah Epstein (Georgetown), Phyllis Goldfarb (George Washington), Catherine Klein (Catholic), and Joe Tulman (University of the District of Columbia). For a description of the concurrent session see *2008 Conference on Clinical Legal Education, ASS’N AM. LAW SCHS.*, http://www.aals.org/events_2008clinicalprogram.php (last visited May 15, 2012).

member from a student. We played ourselves, and created roles for other institutional actors, including an “old lefty” clinic faculty member, a “new lefty” clinic faculty member, a clinic faculty member considering becoming the director, a dean of students, a law student, a dean of a law school, and a nonclinic faculty member. We wrote these roles on index cards, distributed the cards to participants, and asked the participants to participate in our “rounds” by commenting on the discussion in their assigned role. At the end of the session, we shared a bottle of wine that we found by happenstance at a liquor store in Tucson; the wine was made by the Herding Cats vineyard in South Africa, and the label pictured two charging leopards.

Our concurrent session sparked some lively responses. The next day the session, with a picture of the wine bottle, was featured on the clinic blog “Clinicians with Not Enough to Do” under the title “Get a Gift for Your Clinic Director,”⁷¹ and a colleague emailed one of us a video clip entitled “Cowboys Herding Cats” produced as a Super Bowl ad by the company Electronic Digital Systems.⁷² The clip shows cowboys crossing the plains, herding a large group of cats across a river, trying to capture a cat in a tree, and other kinds of mayhem. Two cowboys compare scratches received from the cats. One cowboy says, “Herding cats: don’t let anyone tell you it’s easy.” The clip concludes with the text: “In a sense, this is what we do. We bring together information, ideas and technologies and make them go where we want.”

In our jobs as clinic directors, the members of our group rarely made anyone go where we wanted. But at the session, by relying on our experience and planning, as well as a tolerance for chaos and humor, we hoped to convey a sense of what the job was really like. We did bring people together, and aspired for our programs to function as true communities within the larger communities that we were a part of both within our law schools and the world outside.

II. THE STRUCTURE OF CLINIC DIRECTOR POSITIONS

Here, I offer my observations about two considerations in structuring the clinical director position: should the position be rotating or more permanent, and what are the implications of creating associate-dean positions relating to the clinic? The question of *who*

71. Minna Kotkin, *Get a Gift for Your Clinic Director*, CLINICIANS WITH NOT ENOUGH TO DO (May 7, 2008, 9:57AM), http://kotplow.typepad.com/clinicians_with_not_enough/2008/05/get-a-gift-for.html.

72. *Cowboys Herding Cats*, YOUTUBE (Oct. 31, 2006), <http://www.youtube.com/watch?v=Pk7yqlTMvp8>.

decides how a director is selected has important practical implications and provides a backdrop for discussing these two structural issues. There are two basic ways that a clinical director can be selected: from among faculty currently teaching in the clinic, or by conducting an outside search for a clinic director.⁷³ Because the choice of one path or the other depends a great deal on the particulars of institutional culture, my goal is not to discuss the factors that drive this choice, but rather to briefly describe both processes.

If the director of a clinical program is selected from among faculty currently teaching in the clinic, then the decision about *who* is selected is likely to be a dean-driven decision. For this type of practice, the dean might consult with faculty teaching in the program, or even those teaching outside the program, and there may be certain *de facto* “rules” governing this practice. For example, a director would likely be selected from among tenured faculty in a law school in which clinic faculty can achieve tenure. Seniority might play a role.

On the other hand, if a decision is made to conduct an outside search for a clinic director, then the decision about *who* is selected would be a faculty-driven process. Faculty might defer to a greater or lesser degree to the opinions of faculty teaching in the clinical program, just as they might in appointing faculty to teach in a doctrinal area.

In either process—appointing from within or appointing from outside—power will be distributed and exercised in different ways that will affect the role of clinic faculty in the process.⁷⁴ For example, in the process of appointing from within, the dean could delegate the decision to faculty teaching in the clinic. My guess is that this practice is rare, but there is at least one clinical program that has expressed a preference for this practice.⁷⁵ And for an outside appointments process, a faculty could decide to delegate that decision entirely to a clinical program. But regardless of *who* makes the selection decision, the choice of whether to structure that position as rotating or permanent is an important structural consideration.

In the 1970s and 1980s, when many clinical programs were created,⁷⁶ the question of whether to structure the position of a clinic

73. See Binford, *supra* note 10, at 293.

74. See Nina W. Tarr, *Current Issues in Clinical Legal Education*, 37 *How. L.J.* 31, 41–42 (1993) (describing the role of various institutional actors in hiring clinic faculty).

75. Posting of Carrie Hagan, *supra* note 23.

76. Posting of Sandy Ogilvy, Ogilvy@law.cua.edu, to lawclinic@lists.washlaw.edu (Apr. 25, 2012) (on file with author). This list of specialized clinics at different law schools

director as long-term and permanent, or rotating, was likely not even a consideration in thinking about the position.⁷⁷ In the early days of directorships, the clinic director was typically the only (and often the first) clinical teacher in the law school. The status of these positions varied, but many had no long-term job security. As clinical education grew, the director was typically the only clinician with any form of job security.⁷⁸ There are still clinical programs that fit this model,⁷⁹ but at one time this was the prevailing model. Under this model, the notion of a rotating clinical director made no institutional sense. There was no other faculty member available to rotate into the position.

Many clinical programs have grown by leaps and bounds in the past decade. As tenure and tenure-track positions for clinicians, or some type of increased security of position, have become more common, the possibility of a clinic directorship that might rotate became a reality.⁸⁰ By a “rotating directorship” I mean a directorship that rotates among some or all faculty currently teaching in a clinical program, either because faculty members are hired for set terms, or one that functionally rotates because the expectation is that different faculty members will fill this role.⁸¹

One school describes the transition from the “traditional” longstanding director model to a model that contemplates rotation, with a list of some of the responsibilities of the position:

Currently we have a longstanding director who will be retiring in January. Those remaining are pondering implementing a two year (or three year) rotating internal position complete with a reduced teaching load (to accommodate the additional administrative responsibilities and oversight) and with overall responsibility for budgets, insurance, externships, additional semester clinical experiences, pr, fundraising, and promotion of the clinics in

and when they were created, compiled by Professor J.P. (“Sandy”) Ogilvy, shows that many law schools created clinics during this time period. The University of Colorado Law School created the first clinic on this list, the Criminal Defense Clinic, in 1948. *Id.*

77. See generally Roger S. Haydock, *Clinical Legal Education: The History and Development of a Law Clinic*, 9 WM. MITCHELL L. REV. 101, 106–07 (1983) (detailing the creation of the William Mitchell Law Clinic in the early 1970s).

78. See Binford, *supra* note 10, at 290, 293.

79. See *id.* at 323.

80. See *id.* at 290, 293.

81. Both types of rotation thus contemplate an internal selection process, not an outside search.

*both the community and with the overall faculty. We would also request additional compensation for the duration of the director term and not make it a mandatory rotation, but instead open to any clinicians interested.*⁸²

What are the advantages and disadvantages to rotation, whether it is under a set-term model or a functional one? As I describe in Part I of this essay, my experience is with a model in which the directorship has functionally rotated for the past sixteen years, less by design than simply through practice. I see a great deal of value in rotation.

The biggest advantage to rotation is diversity. Each director brings something different to the job. Each has different strengths and weaknesses. With change, there is a freshness and newness to the position that would not exist with a longstanding director. Rotation ensures that the status quo will not stay in place for very long.

Another advantage of multiple clinicians occupying the director chair is that there is a wider appreciation for the position among clinical colleagues. Anyone who has been a clinical director understands the challenges and is in a position to be more supportive of other clinic directors.

There is also a sense of fairness and equity. A larger number of clinicians have the opportunity to work as the director and learn from that experience. At least in theory, this model is likely less hierarchical than one in which an individual serves as the director for a long period of time. There may be less incentive for a director to behave hierarchically when her position in the hierarchy will change.

This is not to say that every full-time faculty member teaching in a clinical program should be appointed a clinical director. Some faculty members might not be interested in or suited for the position, and it should be possible for a clinician to “opt out” of this responsibility.

And finally, rotation can help avoid burnout. Balancing traditional faculty work with time-intensive administrative work is challenging, and knowing that the job will be yours for a set (or at least not unlimited period of time) allows for a better work balance. And a limited-term directorship might increase the pool of interested candidates.

Clinical directors also face challenges in rotating directorship that is short in duration. The biggest challenge is inexperience in the

82. See Posting of Carrie Hagan, *supra* note 23.

position. While rotation brings change, it also brings in a new person with a steep learning curve facing her in the new position. How steep, of course, depends on the nature of the position and the skills of the person taking over, but much time is spent learning the nature of the job.

The fact that there is a steep learning curve for the position, which would be true of many jobs, is compounded by the amorphous quality of how academic institutions function. Faculty members do not have bosses. Once tenured, faculty members function as relatively autonomous members of the larger community. Many faculty, including clinic faculty, are fairly isolated from the day-to-day operations of the institution. This factor, taken together with flexible and shifting operating rules and norms, means that the learning curve for understanding how things work, and who does what in the institution, is complex.

Another important structural consideration for clinical directorships is whether the job will be one that many clinical teachers will want to do. As clinical programs grow in size and scope, the demands on directors have changed.⁸³ At the same time, clinical directors are chosen from a group of faculty that increasingly face the challenges of teaching, scholarship, and service. As clinicians become more integrated into the world of traditional legal academia—integration which I believe is necessary for clinical legal education to have its greatest impact on legal education—the job of directing a clinical program may simply be less appealing.

In writing about my personal experience directing a clinic, I have thus far steered clear of offering prescriptive advice, but I will offer advice here about when to accept a position as a clinic director. A faculty member considering a director position should pick a time in her personal and professional life when she has the experience necessary for the job and should consider carefully its demands. When I accepted the position of clinic director, I was at a point in my career when I had the necessary skills to direct a clinical program. But the personal demands on my time and energy were challenging. I started the job when my daughter was nine months old. In the first year of the directorship, my partner lived in Baltimore during the work week while she worked very long hours to complete an internship in clinical psychology. All working parents face the challenges of work-life balance, and unlike many working parents, I

83. See, e.g., *Long History, Strong Future of Clinics*, UNIV. OF MICH. LAW SCHOOL, <http://www.law.umich.edu/quadrangle/fall2011/specialfeatures/Pages/Long-History-Strong-Future-of-Clinics.aspx> (last visited May 15, 2012).

was not a single parent, and my partner and I were fortunate enough to be able to pay for full-time (and typically more than full-time) childcare. But it was not the ideal time for me personally to accept the responsibility of directing a clinical program.

I accepted the position because I wanted the opportunity to serve the clinic and the law school, I knew that I would learn a lot, and the law school administration allowed me to make a two-year commitment to the job. I was the first faculty member in our program to seek a limited term at the outset, and, in hindsight, it was a good decision. I would have continued to learn and grow in the position—two years was not enough time to feel that I had mastered any aspect of it—but a longer term was not a realistic option for me. Sometimes the practical trumps the theoretical—whatever the merits of a traditional, long-term directorship, it was not a commitment that I could make at that point in my parenting responsibilities.

Finally, I offer some thoughts about the implications of another structural change in how clinics are led: not by clinical directors, but by associate deans. My law school currently does not have an associate dean for clinical education, although our dean has created the position of Associate Dean for Experiential Learning, to begin at the start of the next academic year.⁸⁴

Many law schools have created associate-dean positions for clinical education, including Stanford,⁸⁵ Michigan,⁸⁶ Georgetown,⁸⁷ George Washington University,⁸⁸ and Washington University.⁸⁹ Two

84. See Posting of Brenda Smith, bvsmith@wcl.american.edu, to lawclinic@lists.washlaw.edu (May 8, 2012) (on file with author) (noting that Robert Dinerstein was appointed to this new decanal position at American University's Washington College of Law).

85. Larry Kramer, *The Necessity of Clinical Legal Education*, STANFORD LAWYER, Spring 2005, at 3 (noting the upcoming appointment of Larry Marshall as Stanford's first associate dean for clinical legal education and public interest programs), available at http://stanfordlawyer.law.stanford.edu/issues/72/sl72_articles.pdf.

86. *Scarnecchia Named Associate Dean of Clinical Affairs*, 39 L. QUADRANGLE NOTES 30 (1996), available at http://www.law.umich.edu/historyandtraditions/faculty/Faculty_Lists/Alpha_Faculty/Documents/Law_Quad_Notes/Scarnecchia_Suellyn_1996_summer.pdf.

87. *Professor Aiken Appointed Associate Dean for Clinical Education*, GEORGETOWN LAW, <http://www.law.georgetown.edu/news/releases/may.11.2012.html> (last visited May 15, 2012).

88. *Faculty Profile: Phyllis Goldfarb*, GW LAW, <http://www.law.gwu.edu/Faculty/profile.aspx?id=12504> (last visited May 15, 2012).

89. *Appell to Step Down as Associate Dean of Clinical Affairs*, WASHINGTON UNIV. ST. LOUIS LAW SCHOOL, <http://law.wustl.edu/news/pages.aspx?id=8730> (last visited May 15, 2012) (noting appointment of first clinic associate dean three years earlier); *Faculty Profiles: Robert R. Kuehn*, WASHINGTON UNIV. ST. LOUIS LAW SCHOOL,

of the earliest clinic associate-dean positions were created by Georgetown in 1989,⁹⁰ and the University of Michigan in 1996.⁹¹ In a study based on data compiled between 2010 and 2011, approximately thirty-two schools reported that the individual at their institution with oversight responsibility for the clinical program (or the clinical program and the field placement program) had a job title that included the word “dean.”⁹² While the study data presents only a rough approximation of the number of clinic associate-dean positions,⁹³ it nonetheless provides a snapshot of an institutional change that seems to have gained traction. Since 2010, a number of law schools have created associate-dean positions for faculty with oversight responsibilities for clinical programs, including Fordham,⁹⁴ Rutgers,⁹⁵ Notre Dame,⁹⁶ University of California, Irvine,⁹⁷

http://law.wustl.edu/faculty_profiles/profiles.aspx?id=7284 (last visited May 15, 2012) (noting current clinic associate dean).

90. THE AALS DIRECTORY OF LAW TEACHERS 2011–2012, at 1003 (2011–2012) (noting that Professor Mlyniec became an associate dean in 1989); *Full time Faculty: Wallace J. Mlyniec*, GEORGETOWN LAW, http://www.law.georgetown.edu/faculty/facinfo/tab_faculty.cfm?Status=LL&ID=291 (last visited May 15, 2012).
91. *See Scarnecchia Named Associate Dean of Clinical Affairs*, *supra* note 86.
92. CSALE 2010–2011 SURVEY, *supra* note 6, at 6. One hundred sixty-three law schools responded to the CSALE study. I computed these numbers by taking the percentage of respondents who indicated that a single individual at their school was responsible for overseeing the clinical program (58%) and multiplying that percentage by the number of respondents (163), and then multiplying this figure by the percentage of job titles in this category (11%) that included the word “dean.” To this figure (10 individuals), I added the 22 individuals who were responsible for overseeing all applied legal education programs (in CSALE terms, clinics and field placement programs) who had the word “dean” in their title. I computed the number of “deans” for applied education by taking the number of respondents who indicated that an individual at their school was responsible for overseeing all of applied legal education (45%), and multiplying that percentage by the number of respondents (163), and then multiplying this figure by the percentage of job titles in this category (30%) that included the word “dean.” I did not include the numbers for individuals who had oversight responsibility only for field placement programs and not clinics as well.
93. *See id.* (providing a methodology caution). The survey sought information about deans, not specifically associate deans, and the data is subject to different interpretations.
94. *Ian Weinstein Named Associate Dean for Clinical and Experiential Programs*, FORDHAM LAW, (Feb. 1, 2010), <http://law.fordham.edu/newsroom/16734.htm> (noting appointment to “newly established” position).
95. *See Associate Dean Jon Dubin—Guiding the Clinical Program Through Exciting Times, Challenging Times*, RUTGERS SCHOOL OF LAW—NEWARK, <http://www.law.newark.rutgers.edu/home/associate-dean-jon-dubin-guiding-clinical-program-through-exciting-times-challenging-times> (last visited May 15, 2012) (noting appointment of first clinic associate dean in 2010); *Faculty Profile: Jon C. Dubin*, RUTGERS SCHOOL OF LAW—NEWARK, <http://www.law.newark.rutgers.edu/faculty/faculty-profiles/jon-c-dubin> (last visited May 15, 2012).

Syracuse,⁹⁸ Vermont,⁹⁹ and most recently, American University, where I teach.¹⁰⁰ Without knowing the job responsibilities attached to these positions, or whether the individuals in these positions have faculty status or another similar status, the precise reach and meaning of these changes is unclear. Yet on their face, they seem significant.

Some of these associate-dean positions involve responsibility for clinical programs standing alone, while others involve responsibility for field placements, other types of experiential education, or public service.¹⁰¹ While these positions include a dizzying array of titles, I think of the first type of position as an “associate dean for clinic,” and the second as an “associate dean for clinic plus,” which can include such responsibilities as “working with [] externship, simulation, hybrid and other experiential offerings, in addition to [] direct[ing] [an] in-house clinical program.”¹⁰² Most law schools that have created an associate dean for clinic have adopted the clinic-plus

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96. In January of 2012, Notre Dame Law School converted the position of clinic director to Associate Dean for Experiential Programs. *See Faculty & Administration: Robert L. Jones*, NOTRE DAME LAW SCHOOL, <http://law.nd.edu/people/faculty-and-administration/clinical/robert-l-jones-jr/> (last visited May 15, 2012).
97. *Faculty: Carrie Hempel*, U. CAL. IRVINE SCH. LAW, http://www.law.uci.edu/faculty/page1_c_hempel.html (last visited May 15, 2012).
98. Syracuse University College of Law recently converted the position of clinic director to Associate Dean for Clinic and Experiential Education. *See* Posting of Mary Helen McNeal, mhmcneal@law.syr.edu, to lawclinic@lists.washlaw.edu (Apr. 27, 2011) (on file with author).
99. *See, e.g., Vermont Law School Hires Dean for Clinical and Experiential Learning*, VERMONT LAW SCHOOL (Feb. 18, 2011), http://www.vermontlaw.edu/news_and_events/news_releases/vermont_law_school_hires_dean_for_clinical_and_experiential_learning.htm.
100. Robert Dinerstein, who in two separate stints as the clinic director served a total of eleven years in the position, was appointed to the newly created position of Associate Dean for Experiential Learning. *See* Posting of Brenda Smith, *supra* note 84.
101. *See Faculty: Carrie Hempel*, *supra* note 97 (describing the Associate Dean for Clinical Education and Service Learning); *Associate Dean Jon Dubin—Guiding the Clinical Program Through Exciting Times, Challenging Times*, *supra* note 95; *Full time Faculty: Professor Aiken Appointed Associate Dean for Clinical Education*, *supra* note 87 (describing the Associate Dean for Clinical Education, Public Interest, and Community Service Programs).
102. *See* Posting of Brenda Smith, *supra* note 84 (describing the position of Associate Dean for Experiential Learning at American University). Titles do not tell the whole story, so it is possible that some associate dean for clinic positions involve broader responsibilities of the “clinic plus” variety.

model.¹⁰³ In either model, the associate-dean position typically has subsumed the position of clinic director.

These positions offer many benefits to the growth of clinical legal education. Titles imply status, and status matters. Function matters even more, and the clinic-plus positions link clinical legal education to other types of experiential education, with the potential to extend the reach and depth of all types of experiential education.¹⁰⁴ I would expect that few clinicians would say that this move toward more status and a broader reach for clinical education and other types of experiential education is a bad idea. Another advantage of making the individual with overall responsibility for the clinical program an associate dean (whether of the clinic or clinic plus type) is the potential for an associate dean to be more involved in decanal conversations and to be involved in those conversations at an earlier point, with a greater opportunity to influence decision-making. Certain policies, such as shorter semesters and changing course loads, can have a different impact on clinical teachers than on nonclinical teachers, and having a seat at the table for those discussions is important. Faculty who teach in clinics do serve as associate deans with law-school-wide responsibilities,¹⁰⁵ but a designated associate dean for clinic or experiential education provides continuity for a voice on these matters in the law school administration.

I wonder, though, about other implications of this change for clinical programs. For those that operate under the leadership of the clinic-plus model, how are all of the day-to-day responsibilities of the clinical program handled? Additional course release time provides one answer. The challenges of directly supervising students who represent clinic clients while directing a clinical program are immense, and these challenges are magnified with the additional responsibilities of serving as an associate dean for clinic and other experiential education programs. Giving additional responsibilities to high-level, legally trained staff is another answer. Any program that

103. Based on the computations from the CSALE survey, CSALE 2010–2011 SURVEY, *supra* note 6, in 2010 and 2011, there were twenty-two deans of the clinic plus type, and ten deans of the clinic type. *See supra* note 91 for computations.

104. *See, e.g., Vermont Law School Hires Dean for Clinical and Experiential Learning, supra* note 99; *Ian Weinstein Named Associate Dean for Clinical and Experiential Programs, supra* note 94 (“Having an Associate Dean for Clinical Education will help ensure that these vital programs are fully integrated into the Law School’s planning and governance.” (quoting then-Dean William Michael Treanor)).

105. *See, e.g., Visiting Faculty: Jennifer Gundlach, HOFSTRA LAW*, http://lawarchive.hofstra.edu/Directory/Faculty/FullTimeFaculty/ftfac_gundlach.html (last visited May 15, 2012) (noting that Professor Jennifer Gundlach is the Senior Associate Dean for Academic Affairs and Clinical Professor of Law).

is considering adopting an associate-dean model needs to consider the impact on live-client clinical programs.

Another implication of this change is that the position of clinic director may become an anachronism. Clinical teachers interested in leading clinical programs will seek associate-dean positions rather than director positions. In our local clinic directors' breakfast group, most of us held director positions, rather than associate-dean positions, and most of these positions are still designated as clinical directorships.¹⁰⁶ But over time, I expect that many clinic director positions will be refashioned as associate-dean positions.

CONCLUSION

Clinical programs vary widely, but they all share the need for leadership. This essay describes my experience directing a clinical program and some of the structural considerations involved in supporting and filling these positions. While the increasing popularity of associate-dean-type positions for clinical programs may over time make the more traditional director positions obsolete, the functions involved in running a clinical program will remain. Indeed, the ambiguity inherent in the role of a clinic director may simply be subsumed—or perhaps even magnified—in the way that these positions are reconstructed as associate deanships. I hope that this

106. The clinical program at American University is currently headed by a clinical director, but will be headed by an associate dean in September of 2012. See Posting of Brenda Smith, *supra* note 84. The clinical programs at the University of Baltimore, Catholic University, University of the District of Columbia, Howard University, and University of Maryland are headed by clinical directors, while the clinical programs at Georgetown and George Washington are headed by associate deans. Compare, *The University of Baltimore Clinic Program*, SCHOOL OF LAW—UNIV. OF BALTIMORE, <http://law.ubalt.edu/clinics/clinics/> (last visited May 15, 2012), *The Catholic University Columbus School of Law Clinics*, COLUMBUS SCHOOL OF LAW, <http://www.law.edu/clinics/cle/> (last visited May 15, 2012), *Karen L. Forman*, UDC DAVID A. CLARKE SCHOOL OF LAW, <http://www.law.udc.edu/?page=KForman> (last visited May 15, 2012), *Clinical Education at Howard Law*, HOWARD UNIV. SCHOOL OF LAW, <http://www.law.howard.edu/96> (last visited May 15, 2012), and *Clinical Law Program—Faculty & Staff*, UNIV. OF MD. FRANCIS KING CAREY SCHOOL OF LAW, <http://www.law.umaryland.edu/programs/clinic/faculty.html?DeptName=Clinical+Law+Program> (last visited May 15, 2012), with *The Jacob Burns Community Legal Clinics*, GEO. WASH. U. L. SCH., <http://www.law.gwu.edu/Academics/EL/clinics/Pages/Overview.aspx> (last visited May 15, 2012), and *Law Center Clinical Program—Contact Us*, GEORGETOWN LAW, <http://www.law.georgetown.edu/clinics/contactus2.htm> (last updated Oct. 11, 2011).

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essay will spark a conversation about the different approaches to leading a law school clinical program.