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School of Law Annual Report 1971-1972

School of Law Dean

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REPORT OF THE SCHOOL OF LAW
July 1, 1971--June 30, 1972

Frederick M. Hart, Dean

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I

Introduction

The most significant development during the report year was the resignation of Thomas W. Christopher as dean and the appointment of the present dean. Dean Christopher spent six years at the law school, and under his leadership it was transformed. The State and the University will be forever in his debt for the advances that he made in the quality of legal education in this State.

It was also a year that saw the retirement of Professor Henry Weihofen who had served this University so well for a quarter of a century. Elsewhere this report details his contributions during the year, but it is worth noting here that a substantial majority of students petitioned the administration that he be retained because of their respect for his teaching ability. Professor Weihofen has contributed greatly to this school, probably more than anyone else who has served it.

The year was one in which applications continued to rise in an almost staggering fashion, more than doubling from the prior year. The year also indicated that this trend is continuing as there was again a substantial increase in the number applying for the 1972-73 academic year. The pressures generated led the

law school to increase its student body beyond what had been anticipated at this time.

During the year the educational program was changed by a substantial increase in the number of requirements and courses in the Clinical Law Program and by a modest interdisciplinary effort.

II

Student Body

The following table illustrates the trend in applications and admissions at the School of Law during the past five years.

<u>Year</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
<u>Total Applications</u>	246	274	336	562	1218
<u>Accepted</u>	152	180	166	174	178
<u>No. Registered</u>	77	80	90	95	115
<u>Median LSAT**</u>	538	529	551	592	613
<u>Median GPA</u>	N/A*	2.62	2.47	2.81	2.88
<u>No. of American Indians</u>	N/A*	5	6	5	7
<u>No. with Spanish surnames</u>	N/A*	11	8	11	14
<u>Resident Applicants</u>	N/A*	N/A*	N/A*	164	295
<u>Residents Registered</u>	N/A*	N/A*	N/A*	66	97
<u>Non-Resident Applicants</u>	N/A*	N/A*	N/A*	304	923
<u>Non-Residents Registered</u>	N/A*	N/A*	N/A*	29	18
<u>Total Enrollment</u>	183	175	186	219	269
<u>Graduates</u>	36	45	41	55	63

* Not Available

** Five years ago only 14% of the entering students had scores of 600 (79th percentile) or better on the LSAT; in 1971, 53% were in that group.

As the quality of the student body has improved, there has been a dramatic decrease in the number of students suspended. In June of 1971, seventeen first-year students were placed on probation, but no students were suspended.

From the number of applications filed during the reporting year, and from national estimates, it is clear that the pressure for admission to law school is unlikely to lessen during the next decade. In the past, planning for the School of Law has been based upon a projected total enrollment of 250 to 275. During the coming year the enrollment will exceed 300 and there is need to consider the needs of the school in this context and to make decisions on whether further expansion is desirable.

The law school's efforts to attract students from minority and disadvantaged backgrounds has been continued during the past year. During the summer of 1971 the school operated the Special Scholarship Program in Law for American Indians summer session for the fifth time. In addition, the school was a consortium member of a two summer institute sponsored by the Council on Legal Education Opportunity (CLEO). In 1971 the summer program was offered at Arizona State University and at Texas Tech.

III

Faculty and Staff

During the 1971-72 academic year, staffing of the law school was badly hurt by several developments. With Dean Christopher's resignation, the new dean reduced his teaching load

to approximately half; Professor Desiderio and Professor Walden were visiting at the University of Maine and Mercer University, respectively; Professor Willis H. Ellis was on a well deserved sabbatical during the second semester, and Professor Walter E. Barnett suddenly resigned after the second semester began.

We were fortunate in being able to attract Professor R. Wayne Walker from Ohio State University, Professor Walter Jaeger from Georgetown University, and Professor Frank Treléase, each to visit for a semester. Professor Charles Daniels also joined our faculty for the year as a Visiting Professor, and Professor Joseph Goldberg from the University of North Dakota joined us on a permanent basis. Professor David Hamilton of the UNM Economics Department spent half time at the law school during the spring. Since these additions were insufficient to fulfill our needs, we made extensive use of part-time teachers during the year.

In spite of unusual demands for administrative and committee work at the law school, the faculty continued its tradition of publication and service activities. The following is a brief review of some of the faculty writing and activities during the report year.

Walter E. Barnett: Published articles in the Vanderbilt Law Review, Law and Social Order and the Los Angeles Advocate; completed the research on a book entitled Sodomy and the Constitution and edited a book of teaching materials, Cases, Problems and Materials on the Law of Wills, Administration of Decedents' Estates and Future Interests. Professor Barnett

lectured at New York University on the subject of Constitutional Grounds for Attacking Morals Legislation and he served on the New Mexico State Bar Committee on Legislative Preparation of the Uniform Probate Code and was a member of the National Screening Committee for Fulbright Scholarships to France and Belgium.

Robert L. Bennett: Mr. Bennett served as Director of the Indian Law Center during the year, resigning that position on June 30, when he became Director of Special Projects on a half-time basis. During the year Mr. Bennett lectured at the University of Arizona, Ft. Lewis College, Navajo Community College, Princeton University, Yale University, Western Illinois University, the University of Missouri, and appeared on KNME-TV and Radio and also on the Educational Television Station operated by the University of Arizona. He was on the Executive Board of the Boy Scouts of America and spoke at the Cultural Awareness Program at UNM, the Madison Civics Club in Madison, Wisconsin, and the City Club of Rochester in New York. Mr. Bennett served as Consultant to the William H. Conner Foundation, to the Haskell Indian Junior College, the Southwestern Indian Polytechnic Institute, the National Indian Health Board and the Institute for the Development of Indian Law.

Charles W. Daniels: Professor Daniels joined the faculty as a visiting professor during the year, accepting a permanent appointment commencing July 1, 1972. In addition to his teaching he was working on two books: one on Federal Criminal Law cases and the other involving Criminal Procedure in New Mexico. He is

a member of the New Mexico State Bar Committee on Criminal Law and served as a Consultant to the New Mexico Criminal Procedure Rules Drafting Committee, which prepared the new Rules of Criminal Procedure which were adopted by the Supreme Court effective July 1, 1972..

Robert J. Desiderio: Professor Desiderio was on leave visiting at the University of Maine for the academic year. He published an article, The Profitable Non-Profit Corporation: Business Activity and Tax Exemption Under Section 501 of the Internal Revenue Code in the New Mexico Law Review. He also completed a revision of the Uniform Commercial Code Reporter-Digest, a two-volume work published by Matthew Bender and Company, and he revised teaching materials which he co-edited with Professor Joseph Goldberg and Professor Frederick M. Hart.

Willis H. Ellis: Professor Ellis was on sabbatical during the second semester and spent the spring in residence at Harvard University School of Law. He completed most of the work on a book entitled New Mexico Community Property Law which will be published in the spring of 1973. He was a member of the Board for the Rocky Mountain Mineral Law Institute and a Consultant on Water Law Programs for Taos Ski Valley and the OEO funded Northern New Mexico Rural Legal Services.

Hunter L. Geer: In addition to his normal duties at the law school, which have become much more burdensome due to the increased number of applications and students, Assistant Dean Geer

acted as Assistant Director of the Special Scholarship Program in Law for American Indians, handling many of the admissions and placement problems of that Program. He served as a member of the American Bar Association Real Property, Probate, and Trust Law Committee, and of the New Mexico Bar Association Committee on Real Property. He talked to numerous civic groups in New Mexico on the law of disposition of property by will and presented a credit course entitled "Law for Laymen" at the Gallup Branch of the University.

Joseph L. Goldberg: Professor Goldberg joined the faculty during the report year, coming from the University of North Dakota, where he had taught for two years. He published a book review in the North Dakota Law Review and completed most of the work on a new book entitled Urban Poverty Law which will be published by Little, Brown and Company during the spring of 1973. Professor Goldberg spoke before the New Mexico Society of Debt Collectors in Silver City and wrote briefs on several cases for the United States Court of Appeals.

Leo Kanowitz: Professor Kanowitz taught at the University of North Carolina School of Law in Chapel Hill during the summer of 1971, and during that same summer, he also taught in the Special Scholarship Program in Law for American Indians here at the University of New Mexico. He published articles in the Hastings Law Journal and in the University of New Mexico Law Journal. In addition he was co-author of an article appearing in the AAUP Bulletin and co-authored an Amicus Brief in a

United States Supreme Court case. He delivered a paper at the Ninth Annual Symposium on Comparative Law in Ottawa, Canada, and testified before the United States Senate Committee on the Judiciary. He wrote a regular column for McCall Magazine entitled "Women Before the Law," and a chapter of a book entitled Womankind: Beyond the Stereotypes. He also completed a book entitled Sex Roles in Law and Society which will be published by the University of New Mexico Press in the fall of 1972. Professor Kanowitz will be on leave during the 1972-73 academic year, during which time he will be visiting at the University of California at Hastings.

Hugh B. Muir: Professor Muir undertook the chairmanship of the Curriculum Committee here at the Law school, which is one of the most significant law school committee assignments. Through his work and that of his Committee, numerous changes were made in the curriculum. Professor Muir published an article in the New Mexico Law Review which was reprinted by Prentice Hall in their series, U. S. Taxation of International Operations. He also substantially completed an article on the use of tax exemptions to attract industries in New Mexico. He spoke at the annual meeting of the New Mexico Bar Association and taught at the University of Alabama School of Law during the summer of 1971.

Gary O. O'Dowd: During the year Mr. O'Dowd was made Director of the Institute of Public Law and Services. Previously he had served as Deputy Director. He was on the Executive Committee of the Board of Directors of the New Mexico Environmental Institute

and a member of the State Bar Committee on Continuing Legal Education. He was the principal reporter for the New Mexico Rules of Criminal Procedure which were adopted by the Supreme Court effective July 1, 1972, and he undertook numerous other research projects in connection with his role as Director of the Institute. With his appointment as Director, it appears as though the Institute of Public Law and Services has begun to undertake the type of projects and to produce the sort of research that was envisioned when it was founded some years ago.

Theodore Parnall: Professor Parnall published an article in the New Mexico Law Review entitled Survey of New Mexico Securities Law. He also published a chapter on Liberian Law for the International Encyclopedia of Comparative Law and prepared an article on Mutual Funds. He attended a conference at the Parker School of Comparative Law at Columbia University and the Law Teaching Clinic at the University of Wisconsin during the summer of 1971. He served as Chairman of the Admissions Committee during the past year, a very time consuming chore. A favorable decision was made on his tenure during the spring and he will gain tenure on July 1, 1973.

Albert E. Utton: Professor Utton published an article in the Natural Resources Journal entitled Environmental Policy and International Institutional Arrangements and he reviewed Senator Anderson's book, Outsider in the Senate, in the New Mexico Law Review. He also completed substantial work on three other articles

which will be published during the coming year. Professor Utton attended the AALS Convention in Chicago, the New Mexico Bar Convention, and the World Peace Through Law Conference in Belgrade, Yugoslavia. He was Chairman of the New Mexico Bar Association World Peace Through Law Committee, and a panel member of the International Environmental Problems Committee of the American Bar Association. He served on the Grant Review Board of the New Mexico Water Resources Institute, and was Consultant for the Maurice Tobin Associates on New Mexico and Arizona drinking water laws. Professor Utton was on the Albuquerque Committee on Foreign Relations and served as President of the Coronado Monument Cultural Society. He was also on the Board of Directors of the QEO sponsored Legal Services Program on the Navajo Reservation (DNA) and of the Northern New Mexico Legal Services Program.

Jerrold L. Walden: Professor Walden was on leave during the academic year and served as Distinguished Visiting Professor of Law at Mercer University; published an article, Proselytes for Espionage: The CIA and Domestic Fronts, in the Public Law Journal and he reviewed a book on Mass Communication Law in the Journal of Legal Education. Professor Walden also completed most of the work on a book entitled Manual on New Mexico Procedure.

Henry Weihofen: Professor Weihofen retired at the end of the academic year after a quarter century of service to this school. During his tenure he became one of the best known law teachers in

the United States, visiting at several of the most prestigious law schools, and was a recognized authority in several fields. His accomplishments during the report year clearly indicate that he continued his scholarly and public service interests.

Professor Weihofen completed a book, Clinical Law Training, which was published by the West Publishing Company. He wrote the chapter on Confidentiality in a book on Community Mental Health Centers and an article on Clinical Training which was published by the Journal of the American Bar Association. He also published a chapter on The Urge to Punish in Perspectives in Correction. Professor Weihofen taught during the summer of 1971 at the University of Iowa and offered a five-week course to residents of the UNM Medical School. He lectured before the Nebraska Psychiatric Institute, the Iowa City Police Association, the Bernalillo County Mental Health Center, and the Sociology Department. He was a member of the Board of Directors of CASA, of the National Association for Mental Health, and of the Albuquerque Urban Observatory. He served as President of the New Mexico Committee of Citizens Concerned about Corrections, and Vice President of the Albuquerque Area Council on Alcoholism. He was a member of the Executive Council of Joint Information Service of the American Psychiatric Association and of the Executive Council of the National Association for Mental Health. He was a member of the Professional Advisory Committee of the National Association for Mental Health and of the Criminal Law Committee of the

National Conference of Bar Examiners. During the summer of 1972, he taught at the University of Alabama School of Law.

Frederick M. Hart assumed the deanship on July 1, 1971. During the report year he published Volume 3 of Forms and Procedures Under the Uniform Commercial Code which he co-authored with William F. Willier. He also published an article in the New Mexico Law Review and the Preface to a reprint of Felix Cohen's Handbook of Federal Indian Law published by the UNM Press. He served as Chairman of the Test Development and Research Committee of the Law School Admission Test Council and was a member of the Board of Trustees of that Council. In June he was appointed as Chairman of the Finance Committee of the Council. He served as a member of the Committee on the Purpose and Structure of the Association of American Law Schools, the New Mexico Judicial Council, the New Mexico Bar Association Committee on the Establishment of a Bar Center, and the New Mexico Advisory Council of the American Arbitration Association. He was Chairman of the New Mexico Supreme Court Committee on the Revision of Criminal Rules and a member of the Board of Directors of the Albuquerque Legal Aid Society, the New Mexico Rural Legal Services Association, and the New Mexico Better Business Bureau. He was President of the New Mexico Better Business Bureau Arbitration and Settlement Association, and of the School Board of Heights Catholic School. He spoke to the Rotary Clubs at Santa Fe, Alamogordo, Deming, and Roswell, and to the Bar Associations at Albuquerque, Alamogordo, Silver City, Las Cruces, and Clovis.

The following indicates the changes in the faculty during the report year:

Termination:	Thomas W. Christopher	Resigned (July 1, 1971)
	Henry Weihofen	Retired (July 1, 1972)
	Walter E. Barnett	Resigned (January, 1971)
Additions:	Joseph L. Goldberg	
	Charles W. Daniels	(permanent as of July 1, 1972)
	Anne K. Bingaman	
	Cruz Reynoso	(as of July 1, 1972)
	Leo M. Romero	(as of July 1, 1972)
	R. Wayne Walker	(as of July 1, 1972)
Regular Faculty on Leave During the Report Year:	Robert J. Desiderio	(leave without pay)
	Jerrold L. Walden	(leave without pay)
	Willis H. Ellis	(sabbatical)
Visiting Professors During the Report Year:	Charles W. Daniels	
	Walter H. Jaeger	
	R. Wayne Walker	
	David Hamilton	
	Frank J. Trelease	
Promotions:	Robert J. Desiderio	from Assistant Professor to Associate Professor (as of July 1, 1971)
	Robert W. Walker	from Assistant Professor to Associate Professor (as of July 1, 1972)
Part Time and Adjunct Faculty:	James F. Beckley	L. Michael Messina
	John R. Cooney	Thomas L. Popejoy, Jr.
	Edward T. Curran	Charles P. Reynolds
	Charles T. DuMars	James T. Roach
	William G. Gilstrap	Raymond G. Sanchez
	Donald L. Jones	Malcolm P. Sharp
	Franklin Jones	William E. Snead
	R. Bruce Keith	Jonathan B. Sutin
	Jose L. Martinez	

IV

Educational Program

A listing of course offerings is appended as a part of this report. The most significant development was a decision to require six credits of clinical law work of students instead of the previous two. The offerings in the Clinical Law Program were greatly expanded.

Professor David Hamilton of the Department of Economics was at the law school during the spring semester on a half-time basis. He co-taught courses in Consumer Law and Poverty Law with Professor Joseph Goldberg of the faculty.

V

Institutional Publications

During the year the law school continued to publish the Natural Resources Journal quarterly, the New Mexico Law Review semi-annually, and the American Indian Law Newsletter bi-weekly. Separate reports on the Natural Resources Journal and the New Mexico Law Review are appended and made a part of this report.

The American Indian Law Newsletter, a modest publication mimeographed at the law school, has gained wide national acceptance as the most useful publication reviewing current national and state legislative, judicial and administrative action affecting Indians. It is sent to over 650 subscribers.

VI

Institute of Public Law and Services

During the year Mr. Gary O'Dowd was appointed Director of the Institute of Public Law and Services, succeeding Professor Utton who became Director of Special Projects. Mr. O'Dowd had previously been Deputy Director. Under Mr. O'Dowd's direction, the Institute has prospered.

Perhaps one of the most significant law reform projects accomplished in the state was the drafting of Rules of Criminal Procedure for the New Mexico courts. These were completed during the year and approved by the Supreme Court on May 3, to become effective on July 1, 1972. With their adoption, New Mexico now has the most modern and progressive criminal procedure of any state. In addition to the Rules, the Institute drafted commentaries to the Rules, forms for their implementation and the necessary statutory revisions to assure their compliance with the laws of the state. The Legislative revisions were adopted by the Legislature as Chapter 62 of the Laws of 1972.

The Institute drafted amendments to the Air Quality Control Act which were adopted by the Legislature as Chapter 51 of the Laws of 1972. The Institute acted in an advisory capacity to the Governor's Office on legislative matters during the 1972 session, reviewing all legislation for that office. Several bills were drafted which were considered but not passed by the Legislature in the areas of environmental law, finance, administrative law, and boarding houses. Memoranda were prepared by the

Institute for the City Attorney of Albuquerque on the taxation of subdividers and for the District Court of Bernalillo County on the distinction between civil and criminal contempt.

The Institute also sponsored a conference on no-fault insurance during the fall and the Director made numerous speeches throughout the state.

Work was begun on a number of new projects, including drafting of a Uniform Code of Evidence for New Mexico under the sponsorship of the New Mexico Supreme Court, the development of Rules for the Implementation of the New Children's Code adopted by the Legislature, a Revision of the Appellate Rules for the Supreme Court in New Mexico, and the formulation of Uniform Jury Instructions in Criminal Cases.

Ms. Helene Simson joined the Institute as an Attorney and Associate in Law beginning July 1, 1972..

VII

American Indian Law Center

The American Indian Law Center received an additional grant from the Donner Foundation which will enable it to continue for the next two fiscal years. Additional funds were obtained through contracts with the North American Indian Court Judges Association, The Navajo Tribe, and LEAA.

During the year the Center assumed responsibility for the preparation of an educational program on Indian Juvenile Law for

the Continuing Legal Education of American Indian Court Judges. The Center also supervised the giving of a course which ran from October through May at various locations throughout the country, including the law school.

A research document on Indian Civil Rights Act was prepared, printed and distributed for the North American Indian Court Judges Association.

The Center developed and conducted training courses and developed a handbook of clerks and administrative personnel of American Indian Courts under the direction of the National American Indian Court Judges Association.

Under contract with The Navajo Tribe, the Center conducted a one-week refresher course for Tribal Prosecutors at Window Rock, Arizona, and developed materials for this course. The project included a revision of the Prosecutor's Handbook previously developed by the Center. The Center also conducted a two-day seminar for Navajo Tribal Judges on the Judicial Code for the Navajo Courts and conducted a program on livestock and branding on The Navajo Reservation.

The Center acted as a consultant to The Northern Pueblos Tourism Enterprises and to Santa Ana Pueblo on specific projects of those two organizations. The Center also participated in a two-day seminar for adult and student representatives of the eight northern Pueblos on major Indian education legislation pending in Congress.

Lecturers were furnished by the Center for the extension program in Indian Law conducted by the University of New Mexico at its Gallup Branch and also for an undergraduate course on contemporary Indian problems offered in the Honors Program.

The Center continued to publish the American Indian Law Newsletter.

VIII

Library

A separate report of the library is appended and made a part of this report.

OFFERING SHEET
Semester I, 1971-72

1159

First Year

#501	Constitutional Law I, <u>OR</u>	3	H. Weihofen
575	Programmed Studies I	2	T. Parnall
502	Contracts	4	J. Goldberg
513	Clinical Law--Introduction to Advocacy	2	C. Daniels
514	Law as an Instrument of Social Change	2	R. Walker
533	Family Law	3	L. Kanowitz and W. Barnett

Second and Third Year

**516	Civil Procedure II	3	Wayne Walker
518	Administrative Law	3	A. Utton
**520	Business Associations I	3	T. Parnall
***523	Commercial Transactions II	2	F. Hart
**524	Community Property	1	W. Ellis
526	Constitutional Law II	3	C. Daniels
*527	Business Planning (limited to 20; priority 3d year)	3	H. Muir
**534	Federal Income Tax	3	H. Muir
536	State and Local Taxation	2	F. Jones
538	Law Journal and Review (2d Year)	1	A. Utton
546	Antitrust	3	J. Goldberg
548	Legislation	2	A. Utton
***552	Federal Jurisdiction	3	L. Kanowitz
**554	Wills and Future Interests	3	W. Barnett
***555	Jurisprudence	3	R. Walker
556	State and Local Government	2	G. O'Dowd
563	Nat'l Moot Court Competition	2	C. Daniels
565	Natural Resources	3	W. Ellis
568	Law Journal and Review (3d Year)	2	A. Utton
***572	The Legal Profession (Required)	2	Wayne Walker
579	Juvenile Courts & Juvenile Delinquency	2	M. Meeseina
594	Individual Research	1-3	Staff
(Added) 570	Law of the Poor	2	Sanchez

Seminars

#549	Comparative Law	2	T. Parnall
574	Mining and Public Lands	2	W. Ellis
584	Indian Law	2	R. Bennett and P.S. Deloria
593	Private Law Reform	2	M. Sharp

Clinical Program

#585	Practical Skills Course	1-3	W. MacPherson & Staff
588	Practical Problems Course	1-3	W. MacPherson & Staff
596	Clinical Field Work I (2d Year)	1	W. MacPherson & Staff
597	Clinical Field Work III (3d Year-Req'd)	3	W. MacPherson & Staff

*Prerequisites: Business Associations I and Federal Income Taxation

**Second-Year ONLY

***Third-Year ONLY

OFFERING SHEET
Semester II, 1971-72

1160

First Year

#504	Criminal Law	3	Weihofen
505	Law of International Relations	2	Parnall
508	Property	3	Barnett & Cooney
510	Torts	4	Trelease
611	Introduction to Legislation	2	Bingaman
613	Introduction to Advocacy II	2	Daniels
675	Programmed Studies II	2	Parnall

Second and Third Years

#517	Trial Practice	2	Snead
521	Business Associations II	3	Parnall
522	Commercial Transactions I	3	Hart
525	Conflict of Laws	3	Walker
529	Criminal Procedure	3	Daniels
530	Estate, Gift & Inheritance Taxation	2	Muir
531	Remedies	2	Fink
532	Evidence	3	Daniels
537	Labor Law	3	Kanowitz
539	Law Journal and Review	1	Utton
545	Estate Planning	2	Muir
547	Water Law	2	Trelease
553	Products Liability	3	Jaeger
557	Trusts	2	Bingaman
561	Arbitration	3	Jaeger
564	Law and the Consumer	2	Goldberg & Hamilton
566	Law and the Behavioral Sciences	3	Walker
578	Land Transfers and Finance	3	Barnett
594	Individual Research	1-3	Staff
640	Applied Problems in Current Litigation	2	DuMars
660	Juvenile Law and Practice	2	Messina
664	Poverty Law	3	Goldberg & Hamilton

Seminars:

567	Legal Problems in Community Economic Development	2	DeForia
576	Current Legal Problems	2	Utton
583	International Legal Problems	2	Utton
595	Tax Policy	2	Muir
650	Pornography and the Law	2	Kanowitz
690	Law and Medicine	2	Weihofen

Clinical Program:

585	Practical Skills	1-3	MacPherson & Staff
588	Practical Problems	1-3	"
696	Clinical Field Work II	1	"
697	Clinical Field Work IV	3	"