Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice & Skills Training

Antoinette Sedillo Lopez
University of New Mexico - Main Campus

Follow this and additional works at: https://digitalrepository.unm.edu/law_facultyscholarship

Recommended Citation
Available at: https://digitalrepository.unm.edu/law_facultyscholarship/59
LEARNING THROUGH SERVICE IN A CLINICAL SETTING: THE EFFECT OF SPECIALIZATION ON SOCIAL JUSTICE AND SKILLS TRAINING

Antoinette Sedillo Lopez*

Words, only words
ice cube echoes
bouncing off cold white marble.
fragments of life
filtered through shame
telling of wounds
in sterile rooms.
lawyers
no/know
not my story
re/presenting me.¹

Arguing against the trend toward specialization in clinical legal education, this essay addresses potential limitations of specialized legal clinics in furthering the dual mission of clinical legal education: social justice and skills training. It points out that specialized clinics limit access to justice by leaving the myriad needs of clients partially unmet. They limit students' learning about the complex needs of clients and students' ability to discover broad inequities in the legal system. Specialization makes it more difficult to train students to be creative problem solvers, and affects their professional socialization.

* Henry Weihofen Professor of Law, University of New Mexico. I would like to thank Steve Ellman and the New York Law School Clinical Legal Theory Workshop for inviting me to present an earlier draft of this paper at the workshop and Jon Dubin for inviting me to participate in the Rutgers Social Justice conference. Jon and I led a concurrent session entitled "Designing Clinics to Fulfill Our Visions" at the 1999 Association of American Law Schools Clinical Conference at Lake Tahoe. The comments by the clinical teachers who attended any of those sessions inform this work. Comments on earlier drafts by Victor Lopez, Richard Gonzales, Dean Robert Desiderio, Alfred Mathewson and Sue Bryant improved the essay. I would also like to express my appreciation to William T. MacPherson, J. Michael Norwood and Jose Martinez as teachers and visionaries of clinical legal education and to the UNM law school faculty for steadfast commitment to clinical legal education. I have learned a great deal about a service/social justice ideal from every clinical student with whom I have ever had the privilege of practicing and every client we have ever met.

¹ Antoinette Sedillo Lopez, Testimony, 7 Am. U. Gender Soc. Pol’y 177 (1999). This poem was inspired when Community Lawyering student, Lucia Blanco and I spent the morning in Family Court and our client began to cry on the stand.
The essay concludes that the dual aspects of the clinical mission—social justice and skills training—are best served by a clinical experience designed to serve the needs of a community or specific client base. It describes the University of New Mexico Law School clinics and argues that clinics should discover the needs of the clients, and then strive to serve those needs, using community education and other non-traditional ways of problem solving and serving the community, if appropriate. A clinic should not limit the subject matter of representation without considering the impact of that decision on a clinic's mission.

INTRODUCTION

Over the last few years, I have noticed a trend toward increased specialization in clinical programs. When I began teaching in January 1986, clinicians seemed to teach in either civil or criminal settings, with a few brave souls doing both. The Association of American Law Schools brochure for the 2000 Clinical Conference lists 16 specialties and a catch-all category “Preferred subject not listed.” One may celebrate the ever more sophisticated development of clinical legal education in a world rapidly moving toward increased specialization. Even so, this trend toward increased specialization in the civil clinic has some important implications for clinical teaching methodology,

---

2 I define specialization as a limit on the subject matter cases that will be accepted for representation.

3 To the extent “Poverty Law” is a specialization, one can argue that many clinics have specialized since their inception. However, poverty law is shorthand for the myriad areas of law that affect poor people. I am referring to specialization of a narrower scope of subject matter. See, e.g., Donald N. Duquette, Developing a Child Advocacy Clinic: A Law School Clinical Legal Education Opportunity, 31 U. Mich. J. L Reform 1 (1997); Susan R. Jones, Small Business and Community Economic Development: Transactional Lawyering for Social Change and Economic Justice, 4 CLIN. L. REV. 195 (1997); Minna J. Kotkin, The Violence Against Women Act Project: Teaching a New Generation of Public Interest Lawyers, 4 J. L. & Pol. 435 (1996).

4 This trend has primarily surfaced in civil specialties. Criminal clinics still seem to revolve around criminal defense, prosecutor and juvenile clinics. This article focuses on the trend in civil clinics.


6 See, e.g., Michael Ariens, Know the Law: A History of Legal Specialization, 45 S. C. L. Rev. 1003 (1994) (describing how the trend toward specialization has changed the nature of the practice of law and describing the organized bar's involvement with specialization).
pedagogical objectives, and our mission. This essay examines the implications.

Civil clinical programs have moved to specialize for multiple reasons. Specialization promotes efficiency in delivering legal services.\(^7\) Second, specialization makes the teaching experience more predictable. It increases the comfort level of both students and teachers. There is a perception that the quality of representation is likely to be higher.\(^8\) Some clinics specialize to further a specific service or social justice agenda.\(^9\) Some clinics specialize because of faculty expertise and interest.\(^10\) Some clinics respond to student demand or interest.\(^11\) Some clinical programs limit the subject matter as a method of financing the clinic.\(^12\) Nonetheless, specialization imposes limitations as well, and these limitations are worth exploring when considering whether to design a specialized clinic.

Although not all clinical teachers agree\(^13\) on the pedagogical objectives\(^14\) of clinical teaching, I believe that all of the pedagogical objectives described by clinicians further the two key components of

---


\(^8\) See Philip G. Schrag, *Constructing a Clinic*, 3 CLIN. L. REV. 175, 191 (1996). Professor Schrag describes the factors relevant to the decision to specialize in one of two areas of law. He cites depth over breadth, quality of supervision, clinic cohesion and educational sharing. He describes the factors relevant to the social justice mission of the clinic such as the nature of the community where the clinic is located as an "extrinsic factor." I propose that the community needs should be one of the primary factors to consider.


\(^11\) The University of New Mexico Southwest Indian Law Clinic was created in response to student demands. See Christine Zuni Cruz, *[On the] Road Back In: Community Lawyering in Indigenous Communities*, 5 CLIN. L. REV. 557 (1999).

\(^12\) See, e.g., Patricia Pierce & Kathleen Ridolfi, *The Santa Clara Experiment: A New Fee Generating Model for Clinical Legal Education*, 3 CLIN. L. REV. 439 (1997). According to the authors' informal survey of the local bar, the clinic was meeting an unmet need in the community, in that there were no other attorneys available to meet those needs.


of clinical legal education: 1) the skills training mission— including personal and professional responsibility—and, 2) the social justice mission—teaching students about serving the needs of the poor and access to justice. The decision to specialize affects both aspects of the clinical mission.

This essay begins by describing the University of New Mexico experience as background. The clinics at the University of New Mex-

---

15 I distinguish mission from educational objectives. Mission focuses on the impact we seek to have on our students and our communities, educational objectives focus on the ways in which we seek to have that impact. See William P. Quigley, Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor, 28 Akron L. Rev. 463 (1995).

16 Since its inception, clinical legal education has served as an effective method of skills training. For some clinical programs, skills training was the primary justification for clinical teaching. However, many clinical programs moved beyond skills training to the teaching of professional responsibility and social justice. This movement beyond skills training to social justice is a return to the roots of clinical legal education. See, e.g., Nina Tarr, Current Issues in Clinical Legal Education, 37 How. L. J. 31 (1993); Jane Harris Aiken, Striving to Teach "Justice, Fairness and Morality," 4 Clin. L. Rev. 1 (1997) (describing the role of clinic in teaching about social justice and proposing to teach students to deconstruct power, identify privilege and take responsibility for the ways in which the law replicates dominance in order to teach lessons about justice, fairness and morality).


18 Others have ably described the social justice history and mission of clinical legal education. See, e.g., Margaret Martin Barry, A Question of Mission, Catholic Law School's Domestic Violence Clinic, 38 How. L. J.135 (1994); Stephen F. Befort & Eric S. Janus, The Role of Legal Education in Instilling an Ethos of Public Service Among Law Students: Towards a Collaboration between the Profession and the Academy on Professional Values, 13 Law & Ineq. 1 (1994); Jon C. Dubin, Clinical Design for Social Justice Imperatives, 51 SMU L. Rev. 1461, 1463-1478 (1998); Peter A. Joy, Political Interference with Clinical Legal Education: Denying Access to Justice, 74 Tul. L. Rev. 235 (1999); Nina W. Tarr, Current Issues in Clinical Legal Education, How. L. J. 31 (1993). See also Aiken, supra note 16 (focusing on the MacCrate Report value of justice, fairness and morality). I will not repeat their arguments here. I believe that teaching law students to be socially conscious practitioners is at the heart of clinical education and should be at the heart of a good legal education. Equal access to justice cannot be achieved if legal services are not made available to the poor and subordinated and if the barriers they face are not challenged. For many schools, community service and social justice are very much an aspect of the mission of clinical legal education. They are an important aspect of my work.

19 I think social justice and skills training complement each other. For example, a good professional should have the skill or ability to reflect on the improvement of the legal system. Such reflection will undoubtedly have implications for access to justice and a contemplation of the inequities in the system.

20 Of course, the University of New Mexico experience may be perceived differently by some of my colleagues. Since we rotate in and out of the clinic, our experiences can vary. Each faculty member who teaches in the clinical law program also teaches in the class-
ico focus on a client community and design the programs to serve the client community's needs. The essay then considers social justice issues raised by the decision to limit subject matter of the representation in a clinical setting. A specialized clinic limits access to justice; it leaves the needs of its clients partially unmet. It thereby limits the students' learning about the myriad needs of clients and affects the students' ability to see inequities in the legal system. After describing the debate about the value of impact litigation or service as ways to meet the clinic's social justice mission, the essay concludes that a clinic can be designed to provide both types of experiences to students. It discusses how specialization may limit the client base in unintended ways.

The essay then considers the implications of specialization for skills training. Specialization narrows the students' ability to appreciate the client's full perspective and may limit problem solving and creativity. Choice of subject matter also affects the socialization of students.

The essay concludes that the dual aspects of the clinical mission—social justice and skills training—are best served by a clinical law program designed to focus first on the community it wishes to serve. A clinic should consult with that community and structure a program to serve the needs of that community. In addition to individual repre-

room. The following description is based on my experience and conversations with many of my colleagues.

21 See notes 31-58 and text, infra.
22 See notes 59-68 and text, infra.
23 See notes 59-68 and text, infra.
24 See notes 59-68 and text, infra.
25 See notes 69-74 and text, infra.
26 See notes 75-80 and text, infra.
27 See notes 81-95 and text, infra.
28 See notes 96-101 and text, infra.
30 Jon Dubin & Antoinette Sedillo Lopez, "Designing Programs to Fulfill Our Visions," Association of American Law Schools Workshop on Clinical Legal Education, Lake
sentation, a program can provide community education, develop relationships with community groups, non-profits and non-legal social service providers. A clinic can consider non-traditional ways of serving the community. Having selected a community to serve, a clinical program should focus on serving the needs of the community and its members; it should not limit its subject matter of representation without considering the impact of that limitation on access to justice, on teaching students about social justice issues, and on skills training.

I. The University of New Mexico Clinical Law Program

The University of New Mexico School of Law operates one of the oldest clinical law programs in the country and is one of a few law schools to require its students to participate in clinics. As early as 1950, students had the option of working with the local legal aid office to partially satisfy graduation requirements. In 1955 an internship with legal aid or the public defender became a requirement for graduation. The in-house clinic begun in the late 1960’s built on support from the CLEPR program. William MacPherson was hired and served as the first clinical director of our program. In 1970, participation in an in-house clinical experience became a requirement for graduation. The vision of then dean Fred Hart and the faculty at that time focused on the University of New Mexico’s mission to prepare lawyers to practice law in New Mexico. Although the clinical subject matter began as a civil clinic, it experimented with a criminal defense model as well. It often addressed particular problems facing the student community. For example, in 1971 the clinic started what it called the Selective Service Branch Project to advise students about their options with regard to the draft. It tried specializing and finally

---

31 Students are permitted to represent clients and appear in court pursuant to N.M. DIST. CT. R.C.P. 1-094 (2001).
33 See id.
34 The Ford Foundation created the Council on Legal Education for Professional Responsibility, Inc. (CLEPR) in 1968. In ten years CLEPR made 209 grants exceeding $ 6.5 million to 107 law schools for clinical programs. See John M. Ferren, Prefatory Remarks, 29 CLEV. ST. L. REV. 351, 352 (1980). The CLEPR funding required that programs be socially progressive as well as educationally sound and relevant to the profession. COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, CLINICAL LEGAL EDUCATION IN THE LAW SCHOOL CURRICULUM 1 (1969).
35 UNM School of Law Policy handbook, compiled by Margaret Banek (on file in the Dean’s office) Addition to Faculty Minutes for September 5 & 6, 1979 dated October 5, 1970 (Hunter Geer, Assistant Dean).
moved to a general law practice model. In 1980, the law school started a prosecutor clinical experience as an alternative to the law practice model. While it was assumed that part of the skills-training experience included notions of professional responsibility and the inculcation of professional values, the focus was primarily on helping students acquire the necessary skills to practice law in New Mexico. In 1982 the clinical courses became graded courses. In 1983 the faculty voted that externship placements would no longer satisfy the clinical graduation requirement.

In 1991, with federal funding, the University of New Mexico launched a new clinical experience with a stronger focus on helping students understand the needs of poor and minority communities in New Mexico. This year-long clinical experiment was designed by J. Michael Norwood, who called the clinical experience “Institute for Access to Justice” (IAJ). Suedeen Kelly and John Kapowski were the first clinical supervisors of the IAJ. They conducted a needs ass-

37 Dick Gonzales directed an employment law clinic with Title VII funding in the 1970’s.
39 New Mexico’s Prosecutor Clinic is run very much like that of Nebraska. See Karen Knight, To Prosecute is Human, 75 Neb. L. Rev. 847 (1996) (describing the Prosecutor Clinic at the University of Nebraska-Lincoln and the pedagogical value of the clinic).
40 To prepare students to practice law in New Mexico is a daunting challenge. Proximity to the Mexican border, multi-culturalism, including the presence of significant portions of Indian country within our borders, poverty, the presence of federal laboratories, a fragile high desert ecosystem and a scarce water supply all affect the practice of law in New Mexico. Cf. Antoinette Sedillo Lopez, Evolving Indigenous Law: Navajo Marriage: Cultural Traditions and Modern Challenges, 17 Ariz. J. Int’l & Comp. L. 283 (2000); Antoinette Sedillo Lopez, International Law—U.S./Mexico Cross Border Child Abduction—The Need for Cooperation, 29 N.M. L. Rev. 289 (1999).
41 UNM School of Law Policy handbook, compiled by Margaret Banek May 3, 1982 faculty meeting minutes (Louise P. Camp, Secretary) (clinic to become a graded course commencing with fall semester 1982) (on file in the University of New Mexico Law School Dean’s office).
42 UNM School of Law Policy handbook, compiled by Margaret Banek (on file in the Dean’s office), November 14, 1983 faculty meeting minutes (E.K. Fuge, Faculty Secretary) (on file in the University of New Mexico Law School Dean’s office). Students are permitted to obtain credit for completing an externship placement, but the externship placement would not satisfy the clinical course requirement. Judicial externships are particularly popular at UNM. See Linda F. Smith, The Judicial Clinic: Theory and Method in a Live Laboratory in Law, 1993 Utah L. Rev. 429 (describing the pedagogical value of the judicial externship).
43 See University of New Mexico School of Law web site <http://lawschool.unm.edu/dean/romero/index.htm> (visited July 12, 2000).
44 We are fortunate that the Supreme Court permits law teachers who are members of a state bar and engaged in supervising students in a clinical law program a limited privilege to practice in New Mexico as a clinical supervising professor without having to sit for the New Mexico Bar. See New Mexico Supreme Court Rule 3-303. This has permitted us to host distinguished visitors from other law schools.
essment and asked students to develop projects that would meet the needs of the community for access to justice. Nancy Cook and I built on their work the next semester. Mitch Jofuku, a clinical law student, developed a model of community education and client service with Young Children’s Health Center. This model was instrumental in helping later participants develop insights about the needs of clients. The development of the Southwest Indian Law Clinic in 1993 helped me understand the notion of addressing the needs of communities and taught me that serving the needs of a community and consulting with community members and service providers about community needs. The Access to Justice Clinic grew to a Semester in Practice clinical experience in which the MacCrate report served as the measure of success in teaching both skills and values. Some faculty members believed that subject matter was irrelevant in that the students would learn the MacCrate skills and values from any type of clinical experience. Nancy Cook has written a bit about the experience. See Nancy Cook, Legal Fictions, Clinical Experiences, Lace Collars and Boundless Stories, 1 CLIN. L. REV. 41 (1994).

Christine Zuni Cruz initiated the Southwest Indian Law Clinic (SILC) in 1993. This clinic responded to student demands and was funded separately by the New Mexico legislature. The SILC focused on helping students practice internal and external Indian law. See, Christine Zuni Cruz, supra note 11; Gloria Valenica-Weber, Barbara Creel, Susan Aussen and Aliza Organick have rotated in as SILC teachers. Before Christine Zuni Cruz began the Clinic, she met with local tribal governments and communities and listened to them talk about their needs.


Andrea Seielstad, Leslie Mansfield, Barbara Creel, Donovan Roberts and Nancy Simmons were funded by the Department of Education to serve as fellows in the Semester in Practice. Each one of them contributed to the theory and development of the concept of community lawyering at UNM. See, e.g., Andrea M. Seielstad, Unwritten Laws and Customs, Local Legal Cultures, and Clinical Legal Education, 6 CLIN. L. REV. 127 (1999) (developing insights about unwritten rules in part based on her University of New Mexico experience); Nancy Simmons, Memories and Miracles—Housing the Rural Poor Along the United States-Mexico Border: A Comparative Discussion of Colonia Formation and Remediation in El Paso County, Texas and Dona Ana County, New Mexico, 27 N.M. L. REV. 33 (1997) (describing how she continued her work with farm-workers through UNM’s clinical law program); Professor Margaret Montoya was also a leader in developing the concepts we continue to work on today. See Margaret E. Montoya, Voicing Differences, 4 CLIN. L. REV. 147 (1997).

The fundamental skills identified in the report are: (1) problem solving, (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and alternative dispute resolution procedures; (9) organization and management of legal work; (10) recognizing and resolving ethical dilemmas. Narrowing the Gap, supra note 48, at 138-40.

The values central to the legal profession are: (1) provision of competent representation (2) striving to promote justice, fairness, and morality; (3) striving to improve the profession; and (4) professional self-development. Id. at 140-41.
rience. Others believed that case type was critical in helping students understand the needs of the poor and their role in the legal system. Because the structure of our clinic permits faculty members a great deal of autonomy in choice of subject matter, the experiences provided to students can vary, depending on which faculty members are teaching in the Clinic.

In 1994 as Principal Investigator of the Department of Education grant, I organized the type of clinical experience available to students. I sought to enhance continuity from semester to semester, particularly with regard to serving the community service sites. After consultation with the faculty, I organized the clinical programs into the Law Practice Clinic, the Community Lawyering Clinics (including Economic Justice), the Southwest Indian Law Clinic (SILC) and the Prosecutor Clinic. These groupings reflect each clinic's client base and are not limitations on the subject matter. The Law Practice Clinic serves students and staff of UNM who meet financial guidelines. The Community Lawyering clinic serves project sites within the community and the individuals who are part of the communities served by the project sites. SILC serves tribes and Native Americans. Currently, our clinical programs continue this grouping with variations in emphasis depending on which faculty member staffs the clinic at a given time. The subject matter within the clinic is not limited by clinic policy; instead each group serves the needs of the particular community the clinic has chosen to serve.

For example, I teach in the Community Lawyering Clinic. We serve communities found in our project sites such as women's shelters, a non-profit community organization for parents who need help with parenting skills, a senior citizens center, a rural water users association and a neighborhood association. Our work involves a variety of subjects and activity. As part of their professional responsibility, in addition to client representation, students are asked to engage in a

---

52 We used the term community lawyering because of our relationship with community service sites and because we went out into the community to find our clients; we did not wait for them to come to us. I realize that "community lawyering" has been used to describe representation of community groups and community organizing. See, e.g., Zenobia Lai, Andrew Leong & Chi Chi Wu, The Lessons of the Parcel C Struggle: Reflections on Community Lawyering, 6 ASIAN PAC. AM. L. J. 1 (2000). Our decision to work collaboratively with community service providers has presented us with opportunities to represent community groups and participate in community organizing. However, that is not our primary focus. The bulk of our legal work is representing individual clients.

53 Each semester the faculty teaching in the clinic hold weekly intake meetings to discuss the cases accepted for representation. At these meetings the faculty focuses on the Clinic's ability to provide adequate representation. If the case is too big to handle, is fee generating, or if the faculty does not feel that we have access to sufficient expertise to provide competent representation, we refer the case rather than accept it.
community education project. As such, students have prepared edu-
cational materials\textsuperscript{54} including web pages,\textsuperscript{55} conducted educational
workshops, organized meetings between non-profit service providers
and state agencies, developed a domestic violence interview protocol
for child protective services and conducted community education
meetings.\textsuperscript{56}

By contrast, when Alfred Mathewson, Scott Taylor\textsuperscript{57} or Natalie
Martin teach in the Community Lawyering clinic, it emphasizes Eco-
nomic Justice issues, such as organization of community non-profits,
income tax credits and bankruptcy. April Land and Michael Norwood
have focused their community work on the needs of children including
the need for adequate juvenile representation. Rob Schwartz tends to
focus on community health needs and legislation. Denise Fort chal-

lenged students to work on environmental issues.

A comparison of caseload prior to the initiation of the commu-
nity lawyering project reveals that the case type has greatly diversified
since we initiated the concept of community lawyering and asked cli-
ents and community service providers what they need.\textsuperscript{58} Of course,
we are unable to meet all of their needs, but the service needs serve as
the starting point for our work.

II. THE SOCIAL JUSTICE MISSION: ACCESS AND
UNDERSTANDING JUSTICE

The pursuit of social justice involves working to provide access to
justice and understanding and addressing inequities in our justice sys-

\textsuperscript{54} See, e.g., Dennis Hill, Step-Parent Adoptions and A Child's Right to Inherit from the
Non-Custodial Biological Parent, New Mexico Bar Journal 13 (Summer 2000); Ida Her-
nandez and Sharon Gooding organized a training session for teachers about their obliga-
tion to report child abuse. S. Carolyn Ramos created a Power Point presentation on
“Reporting Child Abuse.” In addition, my Advanced Family Law students had the option
of designing a project. Isela Garcia, Lidia Camacho and Jane Romero created a manual for
the directors and social workers in the women’s shelters that includes employment and
small business information. Independent study student Sandra Chavez created a manual
with information about non-legal resources for the women. These services grow out of the
view that the clients we served would benefit from this material based on their expression
of need.

\textsuperscript{55} UNM Clinical Law Program Web Pages, <http://lawschool.unm.edu/Clinic/

\textsuperscript{56} See Clinic Project Addresses Domestic Violence, UNM Law 4 (Spring 1999). (alumini
newsletter article describing Gabrielle Sanchez's community lawyering project).

\textsuperscript{57} In addition to his economic justice focus, Professor Taylor has been extremely inno-
vative in computer applications in the clinic. See Scott A.Taylor, Computer and Internet
Applications in a Clinical Law Program at the University of New Mexico School of Law, 6

\textsuperscript{58} See computer printout of 1999 cases sorted by case type (on file with author) and
compare with appendix in J. Michael Norwood, Requiring a Live-Client In-House Clinical
tem. In a clinical setting, providing access to justice means designing a program to address needs for legal service in our communities. Our communities' needs are so great that the decision to specialize in one or more of those needs may be the only practical means to deliver legal services in our increasingly complex world. Further, we may have a particular social justice agenda in mind with our specialization. However, a decision to specialize may limit the potential of the clinic in furthering the social justice mission. Specializing limits the service aspect of a clinic in ways that can be obvious or subtle.

A. The Need for Help with Multiple Legal Problems

The most obvious problem with limiting the subject matter of the representation is failure to provide full service quality legal work for poor people, leaving their myriad and multiple needs for legal services unmet. This is precisely how opponents to legal services have worked to achieve their objective—by limiting the subject matter of Legal Service Corporation supported legal aid programs.

A more subtle problem of specialization is that clinics as institutions, and we as practitioner academics, will not learn about the various and changing needs of poor people. The students will not learn to understand the full complexity and challenges of the lives of their clients and will be more likely to see them as cases and not clients. Some specializations may not expose us to people of color and their lives unless we consciously seek them out as clients.

Teaching students about social justice using experiential learning is complex. It means opening students' eyes to the inequities in


63 For a discussion of clinics' obligation to clients, see Ann Juergens, Teach Your Students Well: Valuing Clients in the Law School Clinic. 2 CORNELL J. L. & PUB. POL'Y 339 (1993).

64 See Jon C. Dubin, Clinical Design for Social Justice Imperatives, 51 SMU L. REV.
society and challenging them to do something about the system. It requires us to teach our students but not preach to them. It requires sensitivity to the myriad issues raised by client needs and a socially conscious pedagogy. Clinicians have written about the challenges of this kind of teaching and developed important pedagogical insights. I believe that one of the most important insights is that of learning to understand the client’s life in a holistic way, not just as a “case” that needs to be resolved. Understanding clients’ lives and experiences helps us grasp systemic inequities and subordination in our society. Fran Quigley uses adult learning theory to demonstrate that the unsettling experiences students have in a poverty law clinical setting provide a perfect vehicle for helping students grasp inequities in our system. But specialization in a clinic risks a teacher/student focus on the subject matter rather than on the client’s needs and risks the loss of the “disorienting moment” that can spur understanding.

B. Impact Litigation Versus Service

In furthering the justice mission of clinical legal education, should clinics engage in large law reform cases or in smaller, more manageable cases? Law reform cases may be efficient ways of creating a transformation in the lives of poor people. The vantage point of the law reform case may offer a unique and valuable learning experience about systemic change. However, smaller cases may be a better vehicle for teaching lawyering skills. Peter Margulies argues that individ-

---


66 See, e.g., Jane Harris Aiken, Striving to Teach “Justice, Fairness and Morality,” 4 Clin. L. Rev. 1 (1997) proposing that clinics teach students to deconstruct power, identify privilege and take responsibility for the ways in which the law replicates dominance in order to teach lessons about justice, fairness and morality); Stephen Ellmann, Empathy and Approval, 43 Hastings L. J. 991 (1992).


ual work can be both political and transformative, using as an example client service for survivors of domestic violence.\textsuperscript{70} If the mission is teaching students about improving the lives of poor people, both types of clinics have this potential. Impact litigation is viewed as teaching students about the potential for having a broader impact than the individual served.

However, in a community service model, students can serve individual clients while focusing on systemic inequities that have broader impact, if the notion of addressing systemic inequities is part of the clinical pedagogy. As examples, clinical student Gabrielle Sanchez designed a project involving a change in how social workers at the Department of Children Youth and Families process domestic violence cases when children observe acts of domestic violence.\textsuperscript{71} Her work has the potential to affect hundreds if not thousands of women. Another project involved legislation. My students Jennifer Cutcliffe and Melanie Rhoades discovered that New Mexico was one of only three states that did not consider domestic violence as a factor to be considered in child custody cases. Jennifer did the research and Melanie drafted a statute and successfully lobbied it into law.\textsuperscript{72} Again, the clinical service we provided was broader than the individual service we provided. We learned about issues facing the survivors of domestic violence from our legal representation. We learned about the difficulties these women had negotiating the custody and visitation arrangements and with the Department of Children Youth and Families. That knowledge spurred us to engage in attempting to reform the system.\textsuperscript{73}

\textbf{C. A Social Justice Agenda to Further}

Some clinics have specialized to address specific problems they see in the communities they serve. For example, Sue Bennett has described her work with poor people that led her to specialize in a Com-


\textsuperscript{71} See Clinic Project Addresses Domestic Violence, UNM Law 4 (Spring 1999) (describing Gabrielle Sanchez's community lawyering project; Gabrielle had the social workers meet with advocates for survivors of domestic violence to address how to help empower the woman in the violent situation rather than removing her children because she failed to protect them from the violence).


\textsuperscript{73} Richard "Ross" Peters started an intake site at the Landlord/Tenant Hotline in Fall 2000. As expected, he and his colleagues (Feliz Rael, Lalita Deveronda, Mike Richardson, Jenny Lusk, Daniela Gonzales and Mike Santistevan) who went to the Hotline and other community sites for intake met clients with a variety of issues, including housing, family law, domestic violence, education, discrimination, consumer and bankruptcy. Ross also conducted a successful community education session at the Hotline.
munity Development and Housing Clinic. Her work is very important both in achieving the service objectives and long term learning about her clients. But her clinic's small group of clients will invariably become unique and less representative of the larger poor community. While the clinic will develop expertise on the complexity of the problems of those clients, it will not obtain a broader picture of contemporary needs of other poor people and people of color in the community. This may be the only practical way to accomplish the particular social justice objective. I simply want to point out the limits.

D. Subject Matter Affects Whom You Serve

A clinical law program that begins with a limit on the subject matter of the representation invariably limits who its clients will be. Sometimes this limit will focus on client identity. For example, an immigration clinic will represent immigrants. A domestic violence clinic will represent survivors of domestic violence, usually women. While some clinics focus on meeting the needs of women and people of color, starting with subject matter or client characteristics makes assumptions about the needs of community that may not be correct for that community. For example, when we met with women at domestic violence shelters, to my surprise we learned that they wanted help with starting small businesses and getting jobs. I was not surprised that they needed help with daycare, but it became obvious that we could help with both by helping them get training and set up daycare and other small businesses. It was important that we did not see ourselves as simply a domestic violence clinic in order to help them with other needs.

K, a client who was a survivor of domestic violence, needed services with regard to the special education needs of her children and her health care needs in addition to representation in her domestic relations matter. This full service representation was a very valuable learning experience for Anne Noel Occhialino, her student attorney. In addition, the entire clinical group learned a great deal from the multiple legal and non-legal problems facing K and her two children.

Leslie Espinosa has written about the paradox of the invisibility of race in clinical teaching and in client representation as well as its pervasiveness in clinical teaching and client representation. She dis-

75 Bill Ong Hing, Clinical Legal Education: Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability, and Age in Lawyering Courses, 45 Stan. L. Rev. 1807 (1993) (discussing how he raises these issues in the context of the Immigration Clinic).
76 One of my students, Jane Tabet, worked on a professional clothing bank for women in shelters.
discusses a difficult domestic relations case involving a white woman, her multi-racial children and her husband's child abuse. She discusses the myriad problems faced by the client and demonstrates the limits of the system in getting at complex race issues. Serving the needs of the client and community, rather than the subject matter, allows students to see the race and gender issues in their full context and not as decontextualized traditional "race" cases that might be presented, for example, in a discrimination clinic.

Rob Williams has described a tribal law clinic serving needs of tribes. Because the clinic serves tribes and native people, its subject matter is quite broad. The subject matter ranges from international rights of indigenous people to guardianship petitions in a tribal court. He began with the community he wanted to serve and developed the subject matter to serve their needs. Focusing on the needs of communities of color helps teach students about the reality of the lives of people in color—something some students know little about. When a clinic decides to specialize, the choice of specialization dictates who is served. It is important to determine who is not served by the specialization and to consider whether this is intentional.

III. SKILLS TRAINING: IMPLICATIONS OF LIMITING SUBJECT MATTER

While the foregoing discussion explores the limiting effects of specialization on the social justice mission of clinical legal education, these limitations also present issues for consideration in light of the skills training mission.

A. Learning Client Stories/Client Lives

Legal representation has been criticized for the ways in which we lose clients stories when we repackage them to fit legal categories that are recognizable to a court. Do we risk losing even more of their

78 For an overview of some of these issues, see Latino Employment, Labor Organizations and Immigration (Antoinette Sedillo Lopez ed., 1995).
81 See Anthony Alfieri, Reconstructing Poverty Law Practice: Learning Lessons of Client Narrative, 100 Yale L. J. 2107 (1991); John B. Michell, Narrative and Client Representation: What is a True Believer to Do when his Favorite Theories Collide? 6 Clin. L. Rev. 85 (1999); Lucie White, Subordination, Rhetorical Survivor Skills, and Sunday Shoes:
stories when we specialize? The first order of business of a specialist is to determine whether the client’s problem fits within the specialty. Thus, the student who is taught in a specialized clinic begins by editing out the client’s story that is not relevant to the specialty. The student misses learning about the client’s experience and does not learn about the client’s life. Clinicians have argued that narrative theory can help give the client a voice in the courtroom when used as a technique of advocacy, in client interviewing and counseling, and in problem solving. Richard Delgado has explained how it is possible for “oppositionists” to use stories to counter mainstream modes of thought. Many legal scholars have used it as a technique for broadening perspective. Delgado’s stories are fiction. What about our clients’ true stories? It is important for the story-teller to tell the whole story, not just the part that is relevant to the listener. And, the listener’s notions of relevance may need to be adjusted. Of course, clients need more than an ability to tell their story, but their story is important. The editing that would occur as students try to elicit facts relevant to the legal specialty can limit the student’s understanding; the promise of narrative theory will be lost.

B. Skills Training: Problem Solving and Creativity

Limiting representation may also limit initiative and creativity. Sue Bryant of City University of New York describes students who learn to see clients’ problems holistically, and who become creative problem solvers, as good “cross cultural travelers.” They have the skills to suspend judgment, to communicate and listen across differences and to explore solutions creatively. Kimberly O’Leary and others have demonstrated ways in which these skills can be taught.

86 Sue Bryant discussed this idea with me at a colloquium I gave at New York Law School in Fall of 2000. See also Susan J. Bryant, Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession, 17 VT. L. REV. 459 (1993).
87 See Kimberly E. O’Leary, Using Difference Analysis to Teach Problem Solving, 4 CLIN. L. REV. 65 (1997) (proposing a step by step approach and exercises to teach students to examine problems from a variety of perspectives to come up with potential solutions); Suellyn Scarnecchia, Gender And Race Bias Against Lawyers: A Classroom Response, 23
Exposing students to the highly diverse and unsettling experience of the myriad issues facing the poor is a step in helping them develop those skills. Of course, the clinical classroom and materials should assist the students in developing those skills.

C. Specialization Affects What is Taught and What Is Learned

Clinicians who advocate for a specialized clinical experience believe that an important pedagogical aspect of their clinic is to teach the subject matter of the clinic through use of the clinical methodology as well as to encourage students to consider that specialization as a career alternative. I am concerned that focusing on subject matter may minimize the focus on client relationship. Encouraging students to specialize in a career too early can limit their visions.

Seattle University has developed an interesting approach. The student's clinical experience is connected to a substantive course. Parallel to non-clinical courses, such as immigration or evidence, the students may take an additional credit with a simulated or live client clinical component. While this is indeed innovative, and values clinical methodology, I am concerned that this poses the danger of further compartmentalizing the students' learning about the problems of their clients. While students are probably capable of putting it all together, just as they do their compartmentalized classroom experiences, they do not experience the disorienting and unsettling growth experience of facing the entire array of client problems just as the clients experience them—all at once.

Lee Teran describes the important work of the St. Mary's Immigration Clinic for Mexican women who are victims of domestic vio-
While St. Mary's offers a variety of Clinics to provide the clients services, including non-legal services, there is a risk that students enrolled in the immigration clinic may not see the full picture of the social and legal needs of these women. Sensitive teachers like Lee will ensure that students see a broader picture of the situation, and St. Mary's Law School is committed to teach students about the big picture. However, the students themselves will not be involved in crafting solutions to the other problems these women might face. The clients will likely be referred to another clinic. Close collaboration among the clinics alleviates the problem of compartmentalization. My point is that there is pedagogical value in teaching students to see the relationships between all the problems faced by the poor and in attempting to craft solutions. An immigration law clinic helps the institution understand the myriad problems faced by immigrants. Given the particular social justice objective, this may be sufficient. However, there is a risk that the immigrant community needs for family law matters, consumer protection, etc., while perhaps noticed, will not be understood in the same way as they would if the students represented them in these matters. Nor will the students be involved in crafting solutions to those problems.

D. Serving the Community and Not the Subject Matter Affects the Socialization of Students

Students learn a great deal from each other. Students in a spe-

93 Lee Teran, Barriers to Protection at Home and Abroad: Mexican Victims of Domestic Violence and the Violence Against Women Act, 17 B. U. Int'l L. J. 1 (1999) (describing the problems faced by Mexican victims of domestic violence and critiquing the Violence Against Women Act for its shortcomings in ensuring their protection); see also Cecelia Espenosa, No Relief for the Weary: VOWA Relief Denied to Women Lost in the Intersections, 83 Marq. L. Rev. 163 (1999) (describing the relationship between VOWA and criminal law and the shortcomings of each; the author, now on the United States Board of Immigration Appeals taught in both the criminal and the immigration clinics).


96 Narrowing the Gap, supra note 48, at 142. The report lists problem solving as one of the fundamental lawyering skills. It goes on to identify five underlying skills in problem solving: "identifying and diagnosing a problem, generating alternative solutions and strategies, developing a plan of action, implementing the plan, and keeping the planning process open to new information and ideas."

97 Fran Quigley demonstrates that adult learners find peer learning the most effective learning style. Quigley, supra note 68, at 57.
cialized clinic all have shared experiences to talk about, making the classroom component of the clinical experience easier to design. But when clinics do not limit themselves to a single subject matter, the diversity of cases enriches the students’ learning experience. Between the ease of a single subject, and the richness of diverse legal problems, I support diversity.

In addition, when students are asked to serve the community, they focus on understanding and learning about that broader client community. They are encouraged to see problems and issues holistically. The diversity of problems leads them to help each other develop initiative and creativity. They learn about collaborating with clients because they must learn to listen to their clients, and not immediately try to solve a problem that they assume their clients have. The students learn to respond to the needs of the community. They learn about prioritizing problems. They experience the frustration of not having the resources to work on all the problems.

Students also learn that sometimes the law simply offers no adequate response to the community problem and they have to seek out different solutions from other disciplines, or engage in community organizing and empowerment to assist the community in working on its own issues.

**Conclusion**

We are training students to practice in an increasingly complex world. If we restrict the subject matter of our clinics, we narrow our world—and that of the students. In the aggregate, we will be less in touch with what is really happening in poor communities and among subordinated groups. We need to find out from them what they need rather than ask them to fit into our specialties. As a further step in meeting the needs of the poor, we must publicize what we find when we get out of our law schools and into communities. We should

---

98 Marisco, supra note 95.
100 See Paul Tremblay, Acting “A Very Moral Type of God”: Triage Among the Poor, 67 Fordham L. Rev. 2475 (1999) (describing issues raised about priorities within a poverty law practice); Justine Dunlap, I Don’t Want to Play God—A Response to Professor Tremblay, 67 Fordham L. Rev 2601 (1999).
101 See Richard Boswell, Keeping the Practice in Clinical Education and Scholarship, 43 Hastings L. J. 1187 (1992) (calling on clinicians not to become isolated from the practice and to return to the legal services roots of clinical legal education). Professor Boswell chairs the Planning Committee of the 2001 Association of American Law Schools Clinical conference. The conference will explore ways of sharing insights developed by clinical teachers through a variety of scholarly and other educational endeavors.
work to seek solutions that may take us out of our comfort zone. We must work on broader solutions such as political activism, legislative reform, funding, economic development, community empowerment, collaborating with community social services, and work for adequate daycare. As we develop these alternative solutions to clients’ problems, we further our dual mission. We teach a sophisticated awareness of social justice issues and better practice skills.