

## RECONSTRUCTING A CLINIC<sup>1</sup>

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*Over the last 40 years, clinical legal education has undergone considerable expansion. More clinics are being offered, more students are enrolling in clinical courses, and more clinical professors are receiving tenure than ever before. However, simultaneous with these successes, some schools continue to wrestle with underperforming clinical law programs. While much has been written about how to start a law school clinic, little has been written to advise law schools on how to turn around a clinic that is struggling. This article tells the story of one such clinic. It describes the financial commitment, facilities acquisitions, programmatic improvements, and personnel changes that were necessary to reconstruct one of the oldest law school clinics in the country. The lessons told remind readers that there are no “quick fixes” to reconstructing a clinical law program. However, with commitment, collaboration, and the support of the entire law school community, it can be done.*

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<sup>1</sup> With apologies and gratitude to Philip G. Schrag, who published the landmark article, *Constructing a Clinic*, more than a decade ago. 3 CLINICAL L. REV. 175 (Fall 1996).

\* Warren Binford is an Assistant Professor of Law and Director of the Clinical Law Program at Willamette University College of Law. She holds a B.A. and an Ed. M. from Boston University and a J.D. from Harvard Law School. This article is dedicated to Dean Emeritus David R. Kenagy and Dean Symeon C. Symeonides. Dean Kenagy played an instrumental role in developing an endowment of the clinical law program and procuring a professional and permanent home for the program, both of which are crucial to the long-term viability of the program. In 2008, the clinical law program was named the “David R. Kenagy Legal Clinic” in his honor. Dean Symeonides steadily continued the campaign that Dean Kenagy began, providing strong and unwavering support at every step of the program’s renovation. I am especially indebted to him for his commitment to and support of higher standards for the program’s performance. I would like to thank Dean Kenagy, Mitzi Nacluer, M. David Daniel, Margaret Schue, and Jennifer Wright, for the considerable historical knowledge and perspective they provided. I would also like to thank the entire faculty at Willamette University College of Law for their support, encouragement, and efforts to turn Willamette’s clinics into a solid and integral component of the law school curriculum. I am also indebted to the Clinical Law Review’s writer’s workshop hosted by NYU in Spring 2006 and my colleagues in my working group for their thoughtful feedback. I deeply appreciate the entire national clinical community who collectively have contributed hundreds of uncompensated hours to the renovation of Willamette’s clinical law program through meetings, telephone calls, campus tours, numerous emails, and patient and thoughtful responses to the dozens of posts to the clinic listserv seeking advice on this renovation. My research assistants, Hadley Rose and Sikina Hasham, were dogged in their pursuit of learning the details and distant history of Willamette’s clinic that many of us never knew existed and which gave us an entirely new perspective on our program’s heritage. My gratitude to them and to all who contributed to this inspiring heritage.

## I. INTRODUCTION

A decade ago, Willamette University College of Law announced that it was preparing to shutter the doors of its legal clinic. Now the clinical law program has the largest programmatic endowment in the history of the law school (over three million dollars), new facilities, and has expanded from one clinic to six. This article explains the fundraising, strategic planning, marketing, program redesign, market research, management and politicking that were necessary to transform Willamette's clinical law program from one of neglect and mediocrity to one that is respected and supported by the law school community.

Although much has been written about creating clinics,<sup>2</sup> the histories of individual clinics,<sup>3</sup> and numerous clinical program models and design,<sup>4</sup> there is a dearth of resources available to assist law schools specifically with the renovation of under-performing clinical programs. This article is intended to provide ideas for improving problematic clinics based on a candid summary of a decades-long effort at Willamette to turn around a civil practice clinic marred by historical under enrollment, low morale, and unreliable funding.

## II. HISTORY

### A. *A Pioneer In Clinical Legal Education Loses Its Way*

#### 1. *An "Exceptional" Law School Clinic Is Launched*

In 1947, Willamette University College of Law established itself as a pioneer of clinical legal education when it founded one of the first legal aid clinics in the West.<sup>5</sup> The law school's legal aid clinic was an immediate success, serving hundreds of clients a year and garnering recognition from the American Bar Association as "exceptional, especially for its teaching technique."<sup>6</sup>

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<sup>2</sup> See, e.g., Schrag, *supra* note 1, and Donald N. Duquette, *Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity*, 31 U. MICH. J. L. REF. 1 (1997).

<sup>3</sup> See, e.g., Thomas F. Geraghty, *Legal Clinics and the Better Trained Lawyer (Redux): A History of Clinical Education at Northwestern*, 100 NW. U. L. REV. 231 (2006); Laura G. Holland, *Invading the Ivory Tower: The History of Clinical Education at Yale Law School*, 49 J. LEGAL EDUC. 504 (1999).

<sup>4</sup> See, e.g., Schrag, *supra* note 1, Duquette, *supra* note 2, and Hope Babcock, *Environmental Justice Clinics: Visible Models of Justice*, 14 STAN. ENVTL. L.J. 3 (1995).

<sup>5</sup> ERIC D. SWENSON, WILLAMETTE UNIVERSITY COLLEGE OF LAW: THE FIRST ONE HUNDRED YEARS: AN ILLUSTRATED HISTORY 34 (1987). Willamette's legal aid clinic was only the seventh in the nation. Although Swenson identifies it as the first in the West, a law review article on the University of Southern California's law clinic reports that it was founded in 1928, about 29 years prior to the founding of Willamette's legal aid clinic. John S. Bradway, *The Beginning of the Legal Clinic at the University of Southern California*, 2 S. CAL. L. REV. 252, 252 (1928).

<sup>6</sup> SWENSON, *supra* note 5, at 33; ROBERT D. GREGG, CHRONICLES OF WILLAMETTE,

The program design was unique: no appointments were necessary. Any indigent person could walk into the College of Law any weekday afternoon and receive legal aid.<sup>7</sup> The clinic was staffed primarily by second- and third-year law students in collaboration with the local bar association.<sup>8</sup> Matters were referred to the clinic from sources ranging from local courts to welfare agencies to the U.S. Department of Justice.<sup>9</sup> Within ten years, the program was distinguished as a United Fund Agency and one of the first clinic directors was appointed to the AALS Committee on Legal Aid.<sup>10</sup>

In the late 1950s and early 1960s, the law school's legal aid clinic continued to provide law practice experience for every student at the law school. The clinic offices were located on the second floor of the law school and all law students were required to work in the clinic on a part-time basis during their spring semester of second year and first semester of third year.<sup>11</sup> The students were supervised by members of the local bar.<sup>12</sup> Courtney Arthur, a professor at the law school, coordinated and facilitated the clinic's work.<sup>13</sup> There were no grades assigned and no academic credit given for the students' work.<sup>14</sup>

## 2. *The Rise Of Legal Aid Eclipses Willamette's Clinic*

However, by the late-1960s Willamette's legal clinic appears to have ceased operating entirely. What happened? Ironically, it appears that the rise of legal aid programs significantly contributed to the demise of one of the first law school clinics in the country. In the 1960s, the Ford Foundation began to make funding available for legal aid programs throughout the nation.<sup>15</sup> Nearly simultaneously, Congress passed the Economic Opportunity Act ("EOA") as part of the "War on Poverty."<sup>16</sup> The EOA established the Office of Economic

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VOLUME II: THOSE EVENTFUL YEARS OF THE PRESIDENT SMITH ERA 136 (1970). Willamette's Legal Aid Clinic was also recognized as an outstanding feature of the law school in the same report submitted by Mr. John G. Hervey, Adviser to the Section on Legal Education of the American Bar Association in April 1956.

<sup>7</sup> SWENSON, *supra* note 5, at 33.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Telephone Interview with The Honorable Wallace P. Carson, Jr., former Chief Justice of the Oregon Supreme Court, Willamette University College of Law Class of 1962, in Salem, Or. (Jul. 29, 2008).

<sup>12</sup> Telephone Interview with Chapin Milbank, Esq., Willamette University College of Law Class of 1960, in Salem, Or. (Jul. 29, 2008).

<sup>13</sup> *Id.*

<sup>14</sup> Carson, *supra* note 11.

<sup>15</sup> National Legal Aid & Defender Association, *History of Civil Legal Aid*, [http://www.nlada.org/About/About\\_HistoryCivil](http://www.nlada.org/About/About_HistoryCivil) (last visited Sept. 28, 2008).

<sup>16</sup> Economic Opportunity Act, Pub. L. No. 88-452, 78 Stat. 508, 42 U.S.C. 2701 et seq.

Opportunity (OEO), which provided a potential source of funding for legal aid programs.<sup>17</sup>

Representatives of Willamette University College of Law immediately sprang to action. They promptly submitted to the OEO's local Community Action Council a proposal to extend the legal services provided by the law school's clinic.<sup>18</sup> Unfortunately, that same year, the Oregon State Bar undertook a study of legal aid, which concluded that the function of legal aid should be returned to the local bar.<sup>19</sup> Given the findings of the study, it is not surprising that Willamette's proposal to extend the legal services it provided to the poor was not adopted. Instead, a joint legal aid and lawyer referral program under the direction of the local bar association was begun.<sup>20</sup>

### 3. *Three Decades Of Fits And Starts*

For the next 30 years, Willamette's legal aid clinic existed in fits and starts as it struggled to find sources of funding.<sup>21</sup> A brief attempt was made to launch a clinical law program in the late 1960s or early 1970s, but quickly failed.<sup>22</sup> Unfortunately, efforts to gather information about this effort have yielded limited knowledge about this attempt.<sup>23</sup> Although firm dates have not been established, one former student reports that a law school clinic existed at least from 1971 to 1974 and was housed off-campus with a medical clinic.<sup>24</sup> The clinic was called "Cry of Love."<sup>25</sup> Law students volunteered to staff the clinic,

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(1964).

<sup>17</sup> NLADA, *supra* note 15.

<sup>18</sup> Marion County Bar Association Board of Directors, Minutes of the Meetings of Dec. 3, 1965, Jan. 7, 1966, Feb. 9, 1966, Feb. 18, 1966, Apr. 1, 1966, and May 2, 1966 (on file with author).

<sup>19</sup> Marion County Bar Association Board of Directors, Minutes of the Meetings of May 2, 1966 (on file with author).

<sup>20</sup> *Id.*

<sup>21</sup> Telephone Interview with Steve Krasik, former Supervising Attorney, Willamette Legal Clinic, Willamette University College of Law, in Salem, Or. (May 14, 2008).

<sup>22</sup> Telephone Interview with Bryan Johnston, Dean Emeritus, Willamette University College of Law, in Salem, Or. (May 14, 2008). Unfortunately, Dean Emeritus Johnston passed away unexpectedly shortly after this interview. He was the "founding father" of the modern clinical law program at Willamette, and his loss to our community is substantial.

<sup>23</sup> For example, all alumni who graduated between 1959 and 1981 were surveyed by email to ascertain whether anyone had knowledge of the law school clinic during the 1960s and 1970s. Email from Cathy McCann Gaskin, Associate Director of Alumni Relations of Willamette University College of Law, to Willamette University College of Law Classes 1959-1981 (Jun. 19, 2008, 2:44 p.m. PST) (on file with author). Although numerous responses were received, few yielded new knowledge about the school's clinic during those decades. (The responses are on file with the author.)

<sup>24</sup> Email from Robert W. Donaldson, Esq., to Catherine McCann Gaskin, Associate Director of Alumni Relations, Willamette University College of Law (Jun. 19, 2008, 2:58 p.m. PST) (on file with author).

<sup>25</sup> *Id.*

working in pairs to provide advice on avoiding the draft, landlord-tenant matters, and small claims matters.<sup>26</sup> The clinic was open in the evenings and was the only place where a first-year student could experience face-to-face interaction with clients.<sup>27</sup> Some evenings there were many potential clients whereas other evenings there were none.<sup>28</sup> Reportedly, there was no direct supervision by faculty or attorneys, and students relied primarily on a set of the Oregon Revised Statutes that was out of date.<sup>29</sup>

In 1984, another effort was made to establish a clinic at the law school; this time as part of the Center for Dispute Resolution.<sup>30</sup> The clinic was staffed by several supervising attorneys who were overseen by the director of the Center for Dispute Resolution.<sup>31</sup> Since the guiding philosophy of the Center for Dispute Resolution was that litigation was one form of dispute resolution, the clinic was not limited to a practice based on alternative dispute resolution and so offered participating students opportunities to litigate cases.<sup>32</sup>

Starting in 1986, the clinic morphed again when the law school received funding for the clinic through a contract with the State of Oregon to provide legal representation in civil matters to the state's inmates.<sup>33</sup> The name of the legal clinic became "Willamette Legal Clinics."<sup>34</sup> By all accounts, the nature of the legal work was not well suited to a law school clinic.<sup>35</sup> Many law students were less than enthused about representing incarcerated persons in their civil disputes and many of the legal matters lasted far beyond the academic semester.<sup>36</sup> As a result, the supervising attorneys often became lead counsel

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Johnston, *supra* note 22.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Personal Service Contract Between the State of Oregon and Willamette University, Sept. 3, 1986, (on file with author); Telephone Interview with M. David Daniel, former Director of Willamette University College of Law Clinical Law Program, in Salem, Or. (May 13, 2008); Johnston, *supra* note 22. The legislature had recently created the State Indigent Defense Board to provide for indigent defense, but had severely under funded the program. DODDS & CROGHAN ALZNER, *SERVING JUSTICE: A HISTORY OF THE OREGON STATE BAR 1890-2000*, 223-24 (2004). Willamette's clinic was one of the chosen beneficiaries of contracts made with outside entities in an attempt by the state to fulfill the constitutional right of all criminal defendants to have access to effective counsel. *See* Personal Service Contract, *supra*.

<sup>34</sup> Interview with Margaret Schue, Legal Secretary, Willamette University College of Law Clinical Law Program, in Salem, Or. (May 14, 2008).

<sup>35</sup> Daniel, *supra* note 33; Johnston, *supra* note 22; Krasik, *supra* note 21.

<sup>36</sup> Krasik, *supra* note 21.

on the cases while the students were relegated to support roles.<sup>37</sup> An additional fundamental problem was that because the grant was “paying the bills,” deference had to be given to the contract and its obligations in designing the program, rather than pedagogy.<sup>38</sup> Law school faculty members began to focus on the clinic and the nature of its work, believing that better clinical opportunities should be provided to Willamette’s students.<sup>39</sup>

After several years, the state contract was not renewed<sup>40</sup> and Willamette’s legal clinic was again without reliable funding.<sup>41</sup> Compelled to reinvent itself once more, the clinic separated from the Center for Dispute Resolution and renamed itself the “Clinical Law Program.”<sup>42</sup> One of the supervising attorneys became director of the program.<sup>43</sup> The law school administration and the clinic director worked together to procure a three-year grant from the United States Department of Education to fund the latest incarnation of the program.<sup>44</sup> Again in “chasing dollars,” pedagogical changes were made.<sup>45</sup> For example, the number of credits offered through the program was increased to three from two.<sup>46</sup> However, the hope was that if a grant from the United States Department of Education was procured, education could finally be put first in the clinical law program.<sup>47</sup>

A review of correspondence related to the United States Department of Education grant application shows that a Herculean effort was made by the law school to garner support of the grant application from stakeholders and public officials throughout the State of Oregon. Phone calls were made and letters were sent from dozens of people—members of Congress, leading attorneys, and members of the bench. The effort paid off. On July 23, 1993, the Willamette University College of Law faculty was informed that it was awarded a grant of \$370,000 from the U.S. Department of Education.<sup>48</sup> The grant was

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<sup>37</sup> *Id.*

<sup>38</sup> Interview of David R. Kenagy, Dean Emeritus, Willamette University College of Law, in Salem, Or (June 10, 2008).

<sup>39</sup> Telephone Interview with Valerie Vollmar, Professor of Law, Willamette University College of Law, in Salem, Or. (May 14, 2008).

<sup>40</sup> The contract was not renewed because the state was advised that it did not have a legal obligation to provide representation to inmates in civil matters. Daniel, *supra* note 33.

<sup>41</sup> Kenagy, *supra* note 38.

<sup>42</sup> Law School Clinical Experience Program Grant Application to Department of Education, Mar. 1, 1993 Grant, 1993 (on file with author).

<sup>43</sup> Daniel, *supra* note 33.

<sup>44</sup> Grant Application, *supra* note 42.

<sup>45</sup> Kenagy, *supra* note 38.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Memorandum from David Daniel, Mitzi Naucler, and David Kenagy to the Faculty

matched with \$380,000 in additional funding from Willamette University.<sup>49</sup> Thus, the program was provided with a budget of \$750,000 to span a three-year period in the mid-1990s. Now the clinic was slated to provide representation in domestic violence and consumer fraud actions.<sup>50</sup>

Finally, Willamette had the financial freedom—at least for awhile—to focus its energy on developing the educational aspects of the clinical law program.<sup>51</sup> Initial brainstorming gave rise to a conceptual framework for a clinical law program that was more integrated into the non-clinical law school curriculum. For example, clinical work in civil litigation would complement civil procedure and pre-trial civil litigation.<sup>52</sup> The domestic violence work would complement family law.<sup>53</sup>

Unfortunately, the period of “financial freedom” for the clinical law program ended before these ideas were realized. When the program funding the grant from the U.S. Department of Education was terminated, Willamette’s law school clinic was once again without a stable source of funding. As the law school’s “off-budget step-child,”<sup>54</sup> its future was uncertain.

Half a century after one of the first law school legal aid clinics in the country was established, it had lost its way. The irony is that this occurred after the rise of legal aid nationally and just as the clinical legal education movement began to gain momentum with an increasing number of law schools starting their own clinical law programs. However, Willamette became a leader in a new way. Through its financial difficulties, it provides lessons to all about the importance of not relying primarily on short-term grants and other temporary funding sources for clinical law programs. More importantly, the story of its reconstruction demonstrates that endowments (or other stable funding sources) of clinical law programs are foundational to a program’s success.<sup>55</sup>

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of Willamette University College of Law (Jul. 23, 1993) (on file with author).

<sup>49</sup> Letter from David R. Kenagy, Associate Dean of Willamette University College of Law, to Elizabeth Furse, Representative, U.S. House of Representatives, (Aug. 6, 1993) (on file with author). According to the director of the clinical law program during that period, the funding provided by Willamette University was primarily “in-kind” support such as administrative salaries, facilities for clinic offices, etc. Daniel, *supra* note 33.

<sup>50</sup> Abstract for Department of Education Grant, 1993 (on file with author).

<sup>51</sup> Kenagy, *supra* note 38.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Research by the author indicates that law school fundraising for clinic endowments is an emerging trend. In addition to Willamette, University of Colorado, University of California Los Angeles, Stanford University, University of Connecticut, University of Miami, and Drake University all report significant clinic fundraising campaigns ranging from

### B. *The Law School Announces Closure Of Its Clinic*

Shortly after the Department of Education grant ended, the students and staff of the clinical law program at Willamette University College of Law were notified that a decision had been made to shut down the law school's clinic.<sup>56</sup> Those affiliated with the program were hardly surprised.<sup>57</sup> The program had moved four times in the previous ten years and was being housed off site from the law school in space that was previously a dorm cafeteria.<sup>58</sup> None of the clinical staff had contractual job security.<sup>59</sup> Most were hired and retained on renewable one-year contracts.<sup>60</sup> Moreover, although most of the student evaluations of the clinical law program were full of praise for their clinical experiences, enrollment was uneven.<sup>61</sup> This made it especially difficult to justify the expense of maintaining three to five clinical law program staff members.<sup>62</sup> Although status and enrollment issues and the instability of funding for the program created low morale, the clinical staff continued to believe deeply in the value of clinical pedagogy and community service.<sup>63</sup> Thus, they were devastated by the law school's decision.<sup>64</sup>

## III. THE RECONSTRUCTION

### A. *A Mysterious Benefactor Provides A New Beginning*

As word of the clinic's demise spread throughout the student body and into the community beyond, a mysterious benefactor appeared. An anonymous donor stepped forward and offered to provide funding to keep the clinical law program operating.<sup>65</sup> The donor

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\$500,000 to \$5 million. These results and strategies for successful fundraising were presented by the author at the 5th Worldwide Conference of the Global Alliance for Justice Education (December 9, 2008).

<sup>56</sup> Janet Davies, *Supporters Lament End of Legal Clinic*, STATESMAN J., Mar. 4, 1996, at 1B; Daniel, *supra* note 33.

<sup>57</sup> Daniel, *supra* note 33.

<sup>58</sup> *Id.* "Clinical staff" includes the supervising attorneys who taught in the program during this period of the clinic's history.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Since the donor requested anonymity, the author cannot reveal specifically how this person emerged as a benefactor. What can be disclosed is that multiple persons were involved: students, clinical faculty, and the administration. While each person played a critical role, one of the associate deans, David Kenagy, and the law school's development officer, Michael Bennett, invested a significant amount of time and energy developing and expanding this gift. There would be no endowment without their commitment to ensuring stable, long-term funding for the clinic.



would initially provide full funding for the program. However, this amount would be decreased over the course of eight years while the law school reallocated its budget to provide consistent, stable funding for the program.<sup>66</sup>

Like a terminally-ill patient who has gone into remission, Willamette embraced this unexpected opportunity to revitalize the clinical law program. Over the next ten years, Willamette made fundamental changes throughout the law school and in the clinical law program in particular, to ensure that the recent past would not be repeated.

A new dean was hired with a highly ambitious vision for the turn around of the law school overall.<sup>67</sup> Although the dean was not a clinician and came from a law school that had never had a clinical law program during his time there, he immediately began to identify ways to strengthen the program through new standards, ambitious fundraising, and administrative support.

The new administration and the development team, led by one of the associate deans, began to work to create a multi-million dollar endowment for the clinical law program so that the viability of the program would never again be threatened by lean times. A concerted effort was made to procure a commitment from a single donor for \$5 million, but this proved to be too ambitious.<sup>68</sup> Instead, a donor agreed to an outright gift of \$1 million with another \$1 million promised if the law school raised matching commitments from other smaller donors for a third million.<sup>69</sup> By 2006, the law school achieved its goals and the clinical law program was “fully” endowed with \$3 million.<sup>70</sup>

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<sup>66</sup> Kenagy, *supra* note 38; Telephone Interview with Jennifer Wright, former Director of Willamette University College of Law Clinical Law Program, in Minneapolis, Minn. (May 14, 2008).

<sup>67</sup> Willamette University is built around a small, well-regarded liberal arts college in Salem, Oregon. Founded in 1842 by Methodist missionaries, it is the oldest university west of the Mississippi River. Willamette's College of Law opened in 1883, and is one of the oldest law schools on the west coast. Historically, Willamette's law school was generally considered the premier law school in the Northwest. It was one of the first law schools to admit women in 1892, awarding its first degrees to women in 1898. A number of leading judges and lawyers have graduated from the law school throughout its history, including three chief justices of the Oregon Supreme Court in the last 25 years. Unfortunately, declining enrollment in the 1980s and 1990s created financial difficulties for the law school that threatened its solvency. The concerted and focused efforts of a strong dean and ambitious faculty have stabilized the law school, while continuously working to return the school to its former status as the top law school in the Northwest. *See generally* SWENSON, *supra* note 5; History of Willamette, Willamette University, [www.willamette.edu/about/history/index.html](http://www.willamette.edu/about/history/index.html) (last visited May 12, 2008).

<sup>68</sup> E-mail from Michael Bennett, Sr. Assoc. Vice President for University Relations, Dir. of Development & Alumni Relations, Willamette University College of Law (Sept. 29, 2008, 3:51 p.m.).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* Initially, it was anticipated that the endowment would cover the clinical law pro-

What was especially impressive about the endowment was the variety of benefactors who contributed. Not all were wealthy. Not all were alumni. The dean himself contributed to the clinical law program endowment, as did the clinic's director, and past and present clinical law program staff members, among others.<sup>71</sup> It was a true team effort. Both the university development office and the law school development office played an active role in securing the endowment, as did the law school leadership. The law school administration and the university's development team include the clinical law program director in fundraising efforts and outreach to alumni and benefactors, and seek her assistance with grants.<sup>72</sup>

At the same time the development team was focused on creating a permanent endowment for the clinical law program, it launched a second fundraising effort to renovate a professional, permanent home for the clinic on the law school campus as discussed in more detail in Section II.B *infra*. While the endowment campaign targeted individual donors, the building campaign focused on fundraising from foundations.<sup>73</sup> In fall 2008, the renovation was completed and the law school had already raised approximately \$3.2 million towards the costs of the \$5 million renovation.<sup>74</sup>

### B. *Raising The Status Of The Clinic Director*

Even prior to the arrival of the new dean, the law school faculty and members of the previous administration (none of whom were clinicians) provided leadership for the clinic's reconstruction. The faculty considered topics ranging from the areas of practice handled by students in the clinical law program to the staffing of the clinic and the status of the program's director.<sup>75</sup> It was clear that the faculty wanted to ensure that their students enjoyed a meaningful clinical experience as part of their legal education—not one defined or rede-

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gram's costs, but this has not been the case, especially with the program's expansion. Nonetheless, the program's endowment covers a substantial portion of the program's expenses.

<sup>71</sup> Many of these people gave silently to the endowment and were not known as benefactors to the endowment until the law school installed a brass plate recognizing their contributions in the foyer of the Carnegie Building, where the new clinical facilities are located. In recognition of David Kenagy's role in procuring stable funding for the program, the new clinic facilities were named "The David R. Kenagy Legal Clinic."

<sup>72</sup> The clinic director also is expected to attend alumni events and invite alumni to clinic functions, when appropriate.

<sup>73</sup> Interview with Michael Bennett, Sr. Assoc. Vice President for University Relations, Dir. of Development & Alumni Relations, Willamette University College of Law, in Salem, Or. (Sept. 9, 2008).

<sup>74</sup> *Id.*; E-mail from Jan Gardner, Project Manager, Willamette University, to Sikina Hasham, Research Assistant to author (July 29, 2008, 3:48 p.m. PST) (on file with author).

<sup>75</sup> Vollmar, *supra* note 39.

financed every few years by soft funding or the grant *du jour*.<sup>76</sup> In fact, during a day-long faculty retreat in the late 1990s, one of the faculty's main foci was the law school's clinic and the status of the program's next director.<sup>77</sup> Ultimately, the faculty recognized that if they wanted to attract a high caliber director, they would need to convert the position into a tenure-track position with full faculty voting rights and voted to make that change.<sup>78</sup>

After the faculty granted equal status to the clinical director position, they embarked on a national search for someone to provide leadership to the reconstruction of the program. They eventually appointed a local legal aid attorney who enjoyed a strong reputation.<sup>79</sup> The new director promptly surveyed the student body and tried to meet with each faculty member personally.<sup>80</sup> She identified opportunities for improvement and began to work with the law school administration to ensure compliance with the ABA standards for clinical programs.<sup>81</sup> She focused on tackling status issues related to supervising attorneys, published a clinic newsletter, built connections to the national clinical community as well as the local legal aid community, and created considerable learning materials for use in the program.<sup>82</sup> Although she ultimately decided to leave Willamette, she actively reached out to the incoming clinic director to ensure that the new director could build on the solid foundation laid by her predecessor.

### *C. Creating A Permanent Home For The Clinical Law Program*

After the new director left, Willamette had several choices: it could retreat from, maintain, or increase its commitment to clinical education. It stood unswayed by the most recent challenge and chose to increase its commitment. Thus, the law school undertook another national search for a clinic director and prepared to increase the support provided to the clinical law program by acquiring and renovating a professional and permanent home for the clinical law program on campus.

#### *1. A Temporary Move To The Legal Arts Building*

Weeks after the second permanent director arrived to take over the program in 2005, the dean offered the clinic director the tempo-

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<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Wright, *supra* note 66.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* She and her successor also worked to renovate the school's externship program, but the details of that effort exceed the scope of this article.

rary use of a historic law office building (“The Legal Arts Building”), until the renovation of the permanent clinic facilities was complete. The Legal Arts Building was conveniently located at the edge of campus and within walking distance of the circuit court, the law school, the state capitol, and the Oregon Court of Appeals and Supreme Court. The law school and the university administration worked diligently with the faculty and staff of the clinical law program to facilitate a move into the Legal Arts Building by the end of that semester. They outfitted the building with 24-hour keycard access,<sup>83</sup> a secure wireless network,<sup>84</sup> almost twice as many student workstations as existed at the clinic’s previous location, and a new phone system with professional calling features such as teleconferencing, call transferring, speakerphones, etc. Already existing in the new (temporary) building were a client lobby (where a play area was created for children), a small law library, a conference room, file room space, a kitchen, and bathrooms. The law school hosted an open house for the law school and local community at the Legal Arts Building. The attendance was more than double that expected. Both the students and the local legal community praised Willamette’s devotion of resources to house the clinical law program in a more professional setting.

## 2. *The Carnegie Building: A Permanent Home*

The reason the move to the Legal Arts Building was temporary is that the law school was in the midst of a fundraising campaign for a permanent home for the clinical law program. As discussed in more detail in section III.A *supra*, the law school undertook this campaign while it simultaneously worked to fund the endowment for the program and address status issues. In other words, the law school launched a multi-faceted effort to address many of the problems that had plagued the program.

One of the most consistent complaints from clinical students and staff alike was the poor facilities provided to the program in recent years. After being moved multiple times, the clinical law program offices were housed in a converted dormitory dining hall on the undergraduate campus that failed to provide clinical students with sufficient

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<sup>83</sup> Previously, students were only given access to the clinic facilities during business hours, which were 8:00 a.m. to 5:00 p.m. Monday through Friday. These hours did not seem sufficient to enable clinical students to meet all of their clinical responsibilities in addition to their other classes and commitments that had to be fulfilled during business hours. Thus, key-card access to the clinical law program offices seemed critical, especially if the students were expected to increase their commitment to their clinical responsibilities.

<sup>84</sup> The old clinical law program space had no wireless access. In fact, most students had to work at permanent workstations on desktop computers with hardwire connections to the clinical law program network.

professional workspace.<sup>85</sup>

Taking the feedback to heart, the law school administration worked with the central university administration to identify and acquire new permanent space for the clinical law program. Quickly they identified the perfect site: a historical building located one block from the law school and across the street from the state capital.<sup>86</sup> Once again, the clinical law program offices were within a short walking distance to four different courts and numerous administrative agencies. Due to its age, a complete renovation of the entire building at a cost of \$5 million dollars was necessary.<sup>87</sup> Once again, the law school administration began pounding the pavement to raise money for both the acquisition of the Carnegie Building and its renovation.

One of the most important aspects of the university's acquisition of the Carnegie Building is that, for the first time in recent memory, the clinical law program finally would be on the law school campus again. The Carnegie Building was large enough to house several other law school programs as well. Thus, the new home for the clinical law program provided an opportunity for the law school to expand its overall footprint on the university campus and in the community. Moreover, the planned move ensured the clinical law program was finally becoming a permanent part of the law school, at least physically. Client confidentiality necessitated some physical separation of the clinical law program offices from the other law school programs, but the clinics and the clinical faculty would be under the same roof as several other law school programs and faculty—indicating that the clinical law program was once again a fully integrated and permanent part of the law school.<sup>88</sup>

The administration appointed the clinic director to the committee charged with overseeing the renovation of the Carnegie Building, and she was consulted on all major decisions related to the clinical law program space. On both personal and business travel, she made a

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<sup>85</sup> Daniel, *supra* note 33.

<sup>86</sup> The Carnegie Building was built in 1912 and served as Salem's first public library until 1972. That year, the building was purchased by the YWCA, which used it for recreational and community activities. The Carnegie Building was purchased by Willamette University in 2003 and the College of Law immediately submitted a request that the building be designated for law school use. The request was approved by the university president, and the law school spent more than one year and approximately \$5 million renovating the historic building. When the building was completed in September 2008, it was renamed the Oregon Civic Justice Center. Willamette University College of Law, Oregon Civic Justice Center Dedication Ceremony Brochure (Sept. 12, 2008) (on file with author).

<sup>87</sup> E-mail from Jan Gardner, Project Manager, Willamette University, to Sikina Hasham, Research Assistant to author (Jul. 29, 2008, 3:48 p.m. PST) (on file with author).

<sup>88</sup> The other law school programs that are located in the clinic's new building are the Center on Law and Government, the Dispute Resolution Program, the Center on Democracy, Religion, and Law, the Oregon Law Commission and the Willamette Law Review.

point of visiting as many law schools as she could to see their clinical space including Stanford, UCLA, NYU, Michigan, UNLV, University of Minnesota, St. Thomas, William Mitchell, University of Washington, and McGeorge. She also relied heavily on the clinical facilities building guide previously published by the Clinical Legal Education Association on its website.<sup>89</sup> The chair of the Carnegie renovation committee visited the recently constructed clinical law program offices at University of Washington School of Law.<sup>90</sup> From the beginning, it was recognized that the needs of clinical offices are different than other law school programs and everyone involved tried to plan the renovation to balance the needs of the clinical law program with the other purposes of the new law school building as much as possible.

For example, an observation room was included to allow students to interview and advise clients without the presence of a professor in the room to change the social dynamics.<sup>91</sup> The observation room has sound and recording devices to allow the students' client meetings and interviews to be recorded and played back for review and feedback. The clinical space also has three open work rooms with module furniture to allow the students to work individually or collaboratively. It has secure doors with keycard access, reception space, on-site file storage, six faculty offices, permanent student lockers (for storing business suits, etc.), and two shared conference rooms. To facilitate social interactions among the various law school programs housed in the Carnegie Building, recreational space was designated upstairs with a kitchenette, widescreen television, and plenty of pub-like seating for faculty and students (this space has affectionately been dubbed "The Pub").

Because the fundraising for and renovation of the Carnegie Building spanned several years, the administration proposed moving the clinical law program from the converted dormitory dining hall to the Legal Arts Building until the renovation was complete. The accolades from the students and community were overwhelming regarding the law school's decision to provide both the Legal Arts Building on a temporary basis and the Carnegie Building on a permanent basis to the clinical law program. It was clear that if Willamette was going to undertake a successful and lasting reconstruction of its clinical law program, money was not enough. They also needed an appropriate

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<sup>89</sup> J. Alexander Tanford, *Clinical Legal Education Facilities: Guide to Building or Renovating Clinical Space* (May 15, 2001) (on file with author).

<sup>90</sup> E-mail from Professor Richard F. Breen, Director, Willamette University College of Law Library, to author (Sept. 10, 2008, 8:31 a.m. PST) (on file with author).

<sup>91</sup> See generally, Carolyn Grose, *Flies on the Wall or in the Ointment: Some Thoughts on the Role of Clinic Supervisors at Initial Client Interviews*, 14 CLINICAL L. REV. 415 (2008).

home for the program. They created that home in the renovated Carnegie Building, and welcomed U.S. Supreme Court Justice Ruth Ginsburg to dedicate the building on September 12, 2008, as part of the law school's 125th anniversary celebration.

#### *D. Assessing The Program And Surveying The Stakeholders*

Just as Thucydides observed more than 2300 years ago, it is people who create a community, not walls.<sup>92</sup> Thus, while all clinical law programs require stable funding and adequate and professional work space, the renovation of a clinical law program cannot focus on fundraising and clinic space alone. Equally tough challenges are attracting and retaining productive, high-quality clinical faculty members and students and developing a curriculum and practice that is meaningful and engaging, as well as appropriate, for students.

In the case of Willamette, the internal renovation process promised to be even more challenging than the establishment of the endowment and the acquisition and renovation of the Carnegie Building. The program was marred by under enrollment of students, relatively high turnover among clinical faculty and staff, and an undefined curriculum and legal practice with a history of frequent changes. Thus, there was significant and difficult work to be done.

In order to ensure that the internal renovation was successful and lasting, it was recognized that a thoughtful, intentional plan built on consensus needed to be developed. Thus, a 10-year strategic plan for the clinical law program was drafted by a group of Willamette law faculty, administrators, and students. But before that planning process began, a three-prong assessment needed to be conducted. This assessment included organized surveys of the Willamette law students and faculty and an informal survey of the local legal community.<sup>93</sup> A thorough audit of the clinic's law practice was also undertaken.

##### *1. Survey Of The Students*

The survey of the law school student body was intended to help address one of the most frequent challenges to the success of the clinical law program: persistent under enrollment. Willamette is one of the smallest law schools in the country, with first-year enrollment

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<sup>92</sup> "It is men who make the city, not walls or ships with no men inside." THUCYDIDES, *THE HISTORY OF THE PELOPONNESIAN WAR* 530 (Rex Warner, trans., Penguin Books 1972).

<sup>93</sup> Both the current and the most recent director surveyed the students and faculty at Willamette shortly after their arrival. The first director, Professor Jennifer Wright, conducted a formal written survey of the students and an informal, oral survey of the faculty (where she met with almost all faculty members individually). Wright, *supra* note 66. The survey efforts described in the rest of this article are the efforts of the current director.

averaging 160 students per year.<sup>94</sup> Thus, one would not expect to see a large number of students enrolled in the program in any given semester. However, enrollment perpetually hovered around 12 students per semester from Fall 1997 to Fall 2004. During four semesters of that period, nine or fewer students enrolled. Considering that the law school regularly employed three to five full-time staff and faculty to teach and operate the program, something had to change.

The fact that Willamette's clinical law program was marred by under enrollment was especially discouraging because the reputation in clinical circles is that clinical law programs are usually one of the most oversubscribed programs at law schools. When a course or program is under enrolled, a natural assumption is that the quality of the teaching is lacking and that efforts should be focused on improving this aspect of the course. However, the clinical faculty and staff enjoyed highly favorable student evaluations. Thus, one could not blame the perpetual under enrollment on the quality of the teaching and supervision provided by the clinical faculty and staff (at least not as perceived by clinical students). Why then were not more students enrolling in the program?

To help gather relevant data, the clinic director contacted a dean at the university's school of management to arrange for two MBA students to receive academic credit for conducting a "clinic marketing survey" of the law school's student body as a research project for a marketing class they were attending.<sup>95</sup> The MBA students worked closely with the clinic director to design the survey. All agreed that in addition to gathering data from the student body to aid with the renovation, another primary purpose of the survey was to raise student awareness about the clinical law program and the experiences it provides. To create incentive for students to participate, the MBA students offered inexpensive gift certificates for a coffee drink at the university's popular student-run bistro to the first group of students who completed the survey.<sup>96</sup> The survey was posted online and distributed to the entire student body. The rate of student participation was relatively high,<sup>97</sup> and the responses were revealing. For example,

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<sup>94</sup> E-mail from Carolyn Dennis, Director of Admission, Willamette University College of Law to Sikina S. Hasham, Research Assistant to author (August 5, 2008, 9:13 a.m. PST). First-year enrollment at Willamette has ranged from a low of 142 to a high of 181 since Fall 1997.

<sup>95</sup> Previous surveys of the student population were conducted regarding the clinical law program, but this was the first that utilized the expertise of the university's MBA students and the first to conduct the survey online.

<sup>96</sup> The gift certificates were paid for out of the clinical law program budget. This was the only direct expense incurred in conducting the survey.

<sup>97</sup> The overall response rate was 15 percent (69 of 455 students). Dan Olsen and Kirsten Changstrom, Market Research Project: Willamette Clinical Law Program (Dec. 8,



the survey results indicated that the clinical law program was not well marketed within the law school.<sup>98</sup> Thus, it appeared that to maximize enrollment, a more concerted and effective marketing plan had to be developed and implemented.

One of the most interesting revelations from the survey involved the practice areas of the clinical law program. A majority of the cases handled by the clinic in recent years were in the area of family law. However, the survey indicated that family law was the tenth choice of 29 in a ranking of preferred practice areas. Thus, the clinical faculty and staff were challenged to diversify clinical offerings to ensure that the clinic offered areas of practice of interest to the students. (Indeed, today, the clinical law program offers practice opportunities in five of the students' top eight choices and a sixth is planned for the future.)<sup>99</sup>

Also, most students (77 percent) indicated that they planned to enroll in the clinical law program, but the actual clinic enrollment hovered around 15-20 percent of the student body prior to graduation.<sup>100</sup> Thus, it was critical for the faculty and staff to determine what was interfering with students' ability to act on their intent to enroll in the program. Survey responses indicated that the number one concern students had regarding enrollment in the program was the time commitment required (67 percent). Nothing else came close.<sup>101</sup> Thus, the MBA students who conducted the survey and analyzed the students' responses recommended a number of changes to the program including (1) offering a sliding credit scale, (2) reviewing the time commitment required, (3) increasing the program size, (4) improving marketing of the program, and (5) revising the course offerings.

The results of the survey and related recommendations were presented to the clinical faculty and staff in December 2005 and to the full faculty (in abbreviated form) in a "State of the Clinic"<sup>102</sup> presentation in Spring 2006.

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2005) (on file with the author).

<sup>98</sup> *Id.*

<sup>99</sup> The top choices reported by students were civil rights, estate planning, criminal law, child advocacy, mediation, landlord-tenant law, business law, and consumer protection law.

<sup>100</sup> This number excludes students who enroll in the externship program, which was part of the clinical law program until Fall 2008. That program was also extensively renovated, but that effort is not described here.

<sup>101</sup> However, some of the other responses were interesting if only for the misinformation revealed. For example, a number of students cited the limited number of spaces for students as the reason they had not enrolled in the program. However, no student has been denied a space in the program for more than one semester, and those who have been waitlisted were waitlisted after the program began to be oversubscribed in 2005.

<sup>102</sup> The clinical law program director tries to provide the full law faculty with an overview of the "State of the Clinic," including enrollment figures, program improvements and issues, and progress on the reconstruction on a regular basis.

## 2. *Survey Of Non-Clinical Faculty Members*

The non-clinical faculty members were also surveyed before beginning the strategic planning process. The survey distributed to the faculty sought insight regarding their attitudes towards clinical education and their thoughts regarding the future direction of the clinic. Again, participation was relatively strong with approximately 60 percent of the non-clinical faculty responding, most on an anonymous basis.<sup>103</sup>

The faculty survey responses provided considerable insight about where the challenges lie. To begin with, few of the permanent faculty had any personal experience with clinical legal education. Many had only taught at Willamette, where the program had struggled in recent years, and only two of the sixteen faculty members who responded had enrolled in clinical law programs when they attended law school. There was no agreement on what Willamette's goal should be for the number of students taking clinic before graduation.<sup>104</sup> Nor did the responding faculty agree on what areas of practice the clinical law program should offer or how the clinic should be staffed.<sup>105</sup>

However, the director was surprised to learn that the majority of faculty who responded indicated an express or potential interest in collaborating with the clinical law program.<sup>106</sup> These responses indicated an open-mindedness to both clinical legal education and collaboration that gave the new director hope that creative and collaborative clinical ventures could be pursued at Willamette. Indeed, the non-clinical faculty members' representations were not mere

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<sup>103</sup> The survey responses are on file with the author.

<sup>104</sup> Faculty responses variously chose every single percentage provided (ranging from "Less than 25%" to "100%") except "0%." Most indicated, "I'm not sure."

<sup>105</sup> Most faculty responses indicated an open-mindedness or flexibility in the appointment status of clinical faculty and staff. For example, many identified several different types of appointments ranging from supervising attorneys to tenure-track professors. On the one hand, it was not surprising that the most frequently identified status for clinical faculty was "Staff attorneys/supervising attorneys," since this was how the clinical law program had been predominantly staffed for two decades. On the other hand, the preference for this status is surprising because there were some informal indications from conversations outside of the survey that neither the law school nor the supervising attorneys were particularly satisfied with this arrangement. Moreover, as discussed in section III.B *supra*, the faculty had decided in recent years to change the status of the clinic director position to a tenure-track position, recognizing that they would not be able to attract a high-caliber individual otherwise. Thus, it is curious that more faculty did not have the same perspective regarding other clinical appointments. That being said, when the next clinical appointment was made several years later, the individual was hired as an "Assistant Clinical Professor of Law" and was offered a long-term contract position. Thus, the appreciation of the appointment terms necessary to attract high-quality clinicians is clearly growing.

<sup>106</sup> Only four of the 16 faculty members who responded indicated that they would not be "interested in the development of a clinical course (or clinical component) for any of the courses [they] teach."

puffery. Within three years, two tenured non-clinical professors were either teaching or providing faculty supervision in the clinical law program, and a third has asked to supervise a clinic, but that clinic has not yet been launched. A fourth is co-teaching a skills course with the clinic director. Further, a visiting clinical professor who spent two years teaching in the clinical law program has been hired to teach contracts in a tenure-track position. Thus, the non-clinical faculty has shown a considerable openness to and interest in clinical education not just in word, but in action.<sup>107</sup>

The faculty survey was critical to informing the incoming director of some of the challenges that lay ahead. For example, she learned that there was no dominant vision for the clinical law program at Willamette. Thus, renovating the program would require leadership, compromise, and some consensus-building among different members of the faculty. However, she also learned that there was considerable support for the program and its' potential. If consensus could be built, it appeared that support would be there for growing and strengthening the law school's clinical law program. She also learned that there was limited experience with clinical law programs among the non-clinical faculty. Thus, delicate and diplomatic efforts had to be made to raise awareness about the role, potential, and standards of clinical legal education.

### *3. Survey Of The Local Legal Community*

The new director also made an effort to survey informally the local bench and bar. Since she had no history or relationship with the Oregon legal community, this was an especially challenging task as an individual effort. However, a number of her law school colleagues (both clinical and non-clinical faculty alike) forwarded the names of dozens of individuals that they suggested she meet with and offered introductions. This collaborative effort made it much easier for her to navigate a relatively small, tight-knit legal community and enabled her to start to assess the challenges and opportunities for law students in local practice. She met with judges at all levels, legal aid attorneys and directors, government attorneys, child advocates, and private attorneys.

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<sup>107</sup> Since clinical legal education is based on a fundamentally different pedagogy than traditional law school teaching, clinics supervised by non-clinical or adjunct faculty are initially co-taught with full-time clinical faculty. This allows the traditionally non-clinical and part-time faculty to become acclimated to clinical methods over time. The long-term goal is that eventually, most of the clinics will be free-standing clinics, but to spin them off too early (before the clinical teaching skills are mastered) could increase the likelihood of failure of that clinic (as defined by low enrollment, poor teaching evaluations, dissatisfied clients, etc.).

Many things were learned from these meetings. For example, there was considerable support for the clinical law program generally, but respect for the program appeared to be uneven. The local community also conveyed a number of very strong opinions about which areas of practice should be included in a renovated clinical law program. For example, it became clear that Willamette would alienate some members of the local bar if the clinical law program handled a significant number of criminal or child dependency cases. Historically, these cases were handled by local consortia of attorneys who received contract work from the state. The director was warned that providing any significant amount of representation in these areas could engender resentment from members of the local bar who might perceive the reconstructed clinical law program as cutting into their “bread and butter,” rather than complementing their work. She was also advised that members of the local bench viewed child dependency cases as too complex for law students to handle.<sup>108</sup> On the other hand, she learned that the local legal community would welcome more pro bono assistance in immigration and family law matters, for example. This knowledge helped to inform the strategic planning that is discussed in more detail in section III.E *infra* so that the reconstructed program would complement, not compete with local practice.

#### 4. *Assessing The Legal Practice*

In addition to gathering data from sources outside of the program, it was also determined that internal assessments should be conducted. Thus, a practice management committee was formed. It was comprised of clinical faculty, staff, and students. The committee audited every aspect of the clinic’s practice, including systems for calendaring, conflicts, file maintenance and organization, malpractice coverage, forms, the clinic library, and client trust accounts. The students played a leading and energetic role in identifying weaknesses and generating solutions.<sup>109</sup>

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<sup>108</sup> Of course, child advocacy clinics have been established throughout the country and many of them provide representation in dependency cases. *See* Duquette, *supra* note 2. Thus, it is clear that a clinic model engaged in this area of practice can succeed and provide a high level of representation to clients if planned carefully. But first, a significant amount of time and energy needs to be focused on building bridges to the local bench and bar in order to garner their support of such a model.

<sup>109</sup> For example, the file system underwent a complete renovation. The committee recommended that the conversion to the new file system should take place for all files within the same week. The committee made all students assigned to each case responsible for converting the case file to the new system. To create incentive, they decided to host a “pizza party” one evening that week. Over half the clinic students attended and actually seemed to have fun converting files because they were working together as a team, and enjoying a social element law school students too often lack in their law school work.

The audit led to the implementation of updated systems throughout the program. New filing, calendaring, and docketing systems were developed. Resources such as forms files, checklists, and “cheat sheets” were significantly expanded. In fact, the entire clinic library was updated and expanded to increase onsite (including online) resources for clinical law program students. Decisions were made to update and improve technology in almost all areas of practice management.<sup>110</sup> Moreover, everyone was committed to moving in the direction of becoming a paperless office over time. New practice management software was acquired that allowed timekeeping, client contacts, communications (internal and external), document management, and case/file management to be managed through one program.<sup>111</sup> All clinical course materials not protected by attorney-client privilege or work product protection were posted online using Westlaw’s TWEN. The clinic’s onsite library was substantially expanded and subscriptions to CLEs were converted to online versions. Secure wireless access was set up in the clinic offices, and everyone was given secure remote access to the clinic server so that they could work from home or other locations, similar to practice at major law firms.

Once the practice management committee completed its audit and implemented changes, they invited a representative of the Oregon State Bar to conduct an external audit of the clinic’s practice management.<sup>112</sup> Fortunately, there were no major issues other than those

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<sup>110</sup> Historically, one of the supervising attorneys handled all aspects of the clinic’s technology, including maintaining a separate server right in the clinic offices. However, during the reconstruction, responsibility for technology management was transferred to the university’s technology department for multiple reasons. The first and most important was that this reallocation of responsibility would make all of the clinical staff and faculty’s working time available for teaching, supervision, scholarship, and service. This was especially important since enrollment was increasing rapidly. The second reason was that the law school was paying for two full-time technology people to assist with law school technology. Since the clinic has significant technology needs on an ongoing basis, it seemed reasonable to rely on the experts being paid by the law school to service those needs. Lastly, integrating clinic technology into the university system (and particularly the law school) was one more way to move towards integrating the clinic into the law school community overall. Of course, there were a number of security issues that needed to be addressed, and the university’s technology department worked hard to identify solutions. Unfortunately, the details are too numerous to describe here. Law clinic technology is a topic that justifies its own article.

<sup>111</sup> Although the clinical law program had historically used a different case management software program (“Time Matters”), it was decided that it took students too long to master the software. Thus, given the high turnover of students working in the clinical law program from semester to semester, a decision was made to migrate to Amicus, which was perceived to be more “user friendly.” However, numerous problems with Amicus and a lack of cost-effective support is causing the clinical faculty to continue their search for the “perfect” law clinic software.

<sup>112</sup> Practice management audits are a free service provided by the Oregon State Bar to

previously identified, which were already being addressed. The entire clinic manual was rewritten to reflect the changes resulting from both the internal and external audits.<sup>113</sup>

*E. Strategic Planning For The Clinical Law Program*

“Where there is no vision, the people perish. . .” Proverbs 29:18

Once the initial assessments were complete, the long-term planning process began. The university president provided a \$4,500 grant to fund the development of a 10-year strategic plan for the clinical law program, and a strategic planning committee was formed. The strategic planning committee was comprised of law faculty, clinic students, an associate dean, and the clinic director.<sup>114</sup> Consideration was given to adding one or two community members to the committee, but it was ultimately decided that it would be inappropriate to have individuals not directly affiliated with the law school designing an academic program. However, it was widely recognized that it was imperative for the clinic director to consult with community members to identify unmet legal needs in the community, and thus, she consulted with a number of members of the local bench and bar on an informal, individualized basis as described in section III.D.3 *supra*.

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any law office in the state. A bar representative reviews all aspects of the practice management systems in place, identifies problems, and works with the law office personnel to generate solutions. The representative also introduces the law office personnel to the latest law office technology and provides free training. The service is entirely confidential.

Retaining a law school clinic consultant to advise on all aspects of the reconstruction of the program, including practice management, was also considered. A consultant would have cost several thousand dollars according to the quotes received. (If no written report is required, law clinic consulting services cost considerably less.) Ultimately, retaining a paid consultant was decided against because the combination of (1) the Oregon State Bar services, (2) the expertise of the clinic faculty, staff, and administration, and (3) the research of the students seemed sufficient, at least in this aspect of the reconstruction.

Of course, the outside consultant was also considered to advise on non-practice management aspects of the program renovation, such as staffing, curriculum, strategic planning, etc. However, the incredible generosity of the entire clinical community made paid consulting unnecessary, at least for the time being. Literally dozens of clinicians helped with all aspects of the program's renovation over a multi-year period covering clinical topics ranging from scholarship to hiring to curricula. This advice was given in numerous personal meetings, telephone calls, email exchanges, and on the “LawClinic” listserv maintained by Washburn Law School's legal indexing and listserv hosting site, Washlaw.edu. Indeed, it is critical for anyone interested in clinical education to join the clinic listservs. Mailing Lists, <http://lists.washlaw.edu/mailman/listinfo> (last visited May 15, 2008) (WashLaw currently has three clinic listservs: ClinAdmin, LawClinic, and LawClinicDir). They are an incomparable source of knowledge and expertise in the area of clinical legal education.

<sup>113</sup> The clinic manual continues to be updated at least once a year.

<sup>114</sup> The funding from the grant was used to compensate each committee member eligible for summer funding (*i.e.*, everyone except the clinic director and the associate dean who are both on year-round contracts) for their work on the strategic plan.

When the strategic planning team at Willamette scanned the literature for guidance on strategic planning for law school clinics, they came back nearly empty-handed. Thus, an email was broadcast on the clinic listserv that resulted in only one strategic plan exemplar.<sup>115</sup> This strategic plan (from University of Nevada, Las Vegas) proved very helpful and was supplemented by a book on strategic planning for law firms,<sup>116</sup> as well as a couple of law review articles on strategic planning for law schools generally.<sup>117</sup> It is unclear why very little has been written about the role of strategic planning for law school clinics, despite the fact that strategic planning is widely accepted as critical to the successful development and reorganization of entities everywhere. This may be changing. Recent articles have begun to mention strategic planning for clinical law programs,<sup>118</sup> and a concurrent session on strategic planning for law school clinics and clinical law programs was offered at AALS's 2008 Conference on Clinical Legal Education.<sup>119</sup> If struggling clinics are going to be successfully reconstructed, there must be some thoughtful planning of their purpose, design, and implementation, as with all ventures.

Despite the dearth of resources to aid them, the strategic planning committee met repeatedly over the course of one summer and exchanged numerous drafts of a strategic plan. The committee considered each of the following potential components of a strategic plan: program name, mission, guiding principles, practice areas, budget, staffing, fundraising, timeline, objectives, motto, clients, grading, credits, assessment, teaching loads, student-to-faculty ratio for clinical courses, and collaborative opportunities. Not all of the components of the plan that was developed are discussed in detail here. Instead, the focus is on the general principles that were developed through the planning process regarding the role of the clinical law program in the

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<sup>115</sup> That strategic plan exemplar came from Annette Appell, formerly associate dean for clinical studies at University of Nevada Las Vegas.

<sup>116</sup> THOMAS C. GRELLA & MICHAEL L. HUDKINS, *THE LAWYER'S GUIDE TO STRATEGIC PLANNING: DEFINING, SETTING, AND ACHIEVING YOUR FIRM'S GOALS* (2004).

<sup>117</sup> See, e.g., David E. Van Zandt, *The Northwestern Law Approach to Strategic Planning*, 31 U. TOL. L. REV. 761 (Summer 2000); Lisa A. Kloppenberg, *The Balancing Act: Leadership in Strategic Planning*, 36 U. TOL. L. REV. 103 (Fall 2004); and Nancy B. Rapoport, *Eating Our Cake and Having It, Too: Why Real Change Is So Difficult in Law Schools*, 81 IND. L.J. 359 (2006).

<sup>118</sup> See, e.g., Kimberly O'Leary, *Clinical Law Offices and Local Social Justice Strategies: Case Selection and Quality Assessment as an Integral Part of the Social Justice Agenda of Clinics*, 11 CLINICAL L. REV. 335 (2005) (describing a variety of tools to assist law school clinics with strategic planning).

<sup>119</sup> ASSOCIATION OF AMERICAN LAW SCHOOLS, PROGRAM PAMPHLET FOR 2008 CONFERENCE ON CLINICAL LEGAL EDUCATION, ("STRATEGIC PLANNING: LEARNING FROM OUR MISTAKES AND GROWING FROM OUR EXPERIENCES") (2008), available at [http://www.aals.org/events\\_2008clinicalprogram.php](http://www.aals.org/events_2008clinicalprogram.php) (last visited September 28, 2008).

law school and the community overall.

1. *The Role Of The Clinical Law Program In The Law School Curriculum*

a. *The Point Of Intersection: Faculty Talent, Student Interest, And Unmet Community Need*

Although the strategic planning committee members represented a diverse group of perspectives from the law school community, a common vision began to emerge over the course of the summer. It was agreed by all members of the strategic planning committee that the clinical law program should be reconstructed around the intersection of three factors: faculty talent, student interest, and unmet community needs. Adherence to the intersection of these three principles helped the committee to eliminate many worthwhile practice areas that were proposed by interested parties, but might not serve the program's or the school's long-term interests.

For example, some of the local judges identified indigent family law clients as an unmet community need. However, there was not a high level of interest in family law indicated by the survey of the student body. Moreover, family law was the most common area of practice in the clinic historically and numerous members of the law school community suggested the historic under enrollment in the clinic was at least partially due to an overemphasis on family law and a failure to offer practice opportunities in other areas, such as business law. Finally, many of the family law cases handled by the clinic were extremely complex, extended over several years, and often included allegations of violence. Consequently, it was difficult for the students, who were only in the clinic for 13 weeks, to become lead counsel on the case. Thus, the supervising attorneys and faculty were often necessarily lead counsel in the case with the students acting as junior associates. While a few students enjoyed this support role, many indicated that they prefer to handle their "own" cases, where they act as lead under the close supervision of faculty. Moreover, it was believed by the clinical faculty and staff that there are many pedagogical benefits to students having primary responsibility for the handling of their cases.<sup>120</sup> Finally, many of the students who worked on the family

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<sup>120</sup> Frank S. Bloch, *The Andragogical Basis of Clinical Education*, 35 VAND. L. REV. 321, 331 (1982) ("[T]he more active the learner's role in the process, the more he is probably learning") (quoting M. KNOWLES, *THE MODERN PRACTICE OF ADULT EDUCATION* (1970)); *id.* at 347 (students learn more through getting to exercise their own initiative instead of being dominated by the teacher); Grose, *supra* note 90, at 419 (2008) (adult students learn best by doing); Lisa Torraco, *The New Mexico District Attorney Clinic: Skills and Justice*, 74 MISS. L.J. 1107, 1123 (2005) (example of a clinic where students begin the semester as "second chair" attorney and then become lead counsel after their skills and



law cases involving violence exhibited symptoms of secondary trauma, which is not an ideal way for students to launch their legal careers.<sup>121</sup> For all of these reasons, it was decided not to expand the clinical law program's practice in the area of complex family law, and to limit future representation in this area to exceptional cases despite the fact that pro se family law was an unmet community need. As difficult as the decision was, the fact is that the strategic planning committee recognized that the reconstructed clinical law program could not be all things to all people and worked to focus the reconstruction at the intersection of faculty talent and student interest, in addition to unmet community need.

*b. A Natural Affinity With The Law School's Certificate Programs*

When the strategic planning committee began to focus on the intersection of internal factors (faculty talent and student interest), a natural integrated role in the law school's general curriculum immediately began to materialize. The law school was already in the process of implementing a general strategy to organize aspects of its curriculum and resources around academic centers that granted certification to students who completed requisite coursework. The law school launched certificate programs in law and government, sustainability law, international and comparative law, dispute resolution, and business law.

Most of the certificate programs require students to complete a practicum in addition to academic coursework.<sup>122</sup> The committee recognized that a natural and meaningful role for the clinical law program would be to complement the law school's certificate programs by offering practice opportunities that would allow students to complete their certificate's practicum requirement through the clinical law

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confidence develop).

<sup>121</sup> Ingrid Loreen, *Therapeutic Jurisprudence and the Law School Asylum Clinic*, 17 ST. THOMAS L. REV. 835, 850-851 (2005) (finding that secondary trauma results from listening to repeated accounts of highly traumatizing situations and can cause lawyers to suffer similar symptoms (depression, anxiety, etc.)); Lynda L. Murdoch, *Psychological Consequences of Adopting a Therapeutic Lawyering Approach: Pitfalls and Protective Strategies*, 24 SEATTLE U. L. REV. 483, 493-494 (2000) (describing secondary trauma as the trauma professionals and human service workers might experience from hearing repeated accounts of traumatic experiences, which can affect their ability to assist clients); Lynette M. Parker, *Increasing Law Students' Effectiveness when Representing Traumatized Clients: A Case Study of the Katherine & George Alexander Community Law Center*, 21 GEO. IMMIGR. L.J. 163, 167-176 & n.49 (2007) (suggesting that students probably need special training to minimize vicarious or secondary trauma).

<sup>122</sup> Three of Willamette's certificate programs require practical experience (Sustainability Law, Dispute Resolution, and Law and Government). Two do not (Business Law and International Law).

program. By offering clinical opportunities to each of the certificate programs, more consistent standards of performance and accountability would be ensured for all of the certificate programs.

## *2. The Role Of The Clinical Law Program In The Larger Community*

### *a. Service With Intention And A Depth Of Expertise*

One of the more difficult decisions faced by the strategic planning committee was how to serve the local community. Historically, the clinical law program offered a general civil practice clinic that provided a variety of legal services to indigent clients across a broad range of practice areas including family law, estate planning, landlord/tenant disputes, consumer protection, and tribal law. The general civil practice clinic also provided advice to select non-profit entities. Most clients were normally referred by third-party entities such as the local legal aid office and a domestic violence center, which would prescreen the clients. No “walk-ins” were allowed.

There were several problems with this model. First, the areas of practice were not integrated into the law school curriculum generally. This disconnect served to amplify the perception that the clinic was a stand alone entity that was not fully integrated into the law school and its curriculum. Another problem was that there were only two to three clinical faculty or staff members supervising the clinic’s students during any given semester, yet they were supervising students in six or more practice areas. Thus, the supervisors were required to stretch their expertise and supervision across myriad cases and practice areas simultaneously. At least in theory, this could distract the supervisor from focusing on the student’s performance in clinical practice because so much time and energy would be required to ensure that the supervisor had mastered the latest legal developments and practice standards in each area. Finally, there was a lack of predictability for the students. They would enroll in clinic, be assigned a partner, and the partners would be assigned cases that may or may not serve the students’ academic and professional goals. Thus, enrolling in clinic became, at least for some students, a roll of the dice.

To address each of these problems, the strategic planning committee recommended that the clinic establish several individual clinics (again, most of which would complement the school’s certificate programs) in specific practice areas. That way, students could register for a specific practice area with an expectation that at least some of his or her clinical work would be in that area. No longer would the clinic simply adapt to whatever cases were referred; rather, it would have intentional, organized areas of practice that fall within the supervisor’s

area of expertise. Moreover, no clinical supervisor would have responsibility for practicing across more than two areas without assistance. Thus, the clinical supervisors could develop and maintain areas of expertise at a sustainable level.

*b. One Example Of Focused Service: The Law And Government Clinic*

One of the clinics launched during the reconstruction that exemplifies the embodiment of these new principles is the law and government clinic. The law and government clinic enables students enrolled in the law and government certificate program to satisfy their practicum requirement for the certificate. Students who are not participating in the law and government program are also welcome to enroll in the clinic. The law and government clinic provides all students the opportunity to explore the role and responsibilities of lawyers in government.

The clinic was created through a partnership between the Oregon Department of Justice (“DOJ”) and Willamette’s clinical law program. The need for the partnership was born from a decision of the Oregon legislature to discontinue allocating general funds to the Financial Fraud/Consumer Protection Section, making it financially difficult for the DOJ to pursue fraud schemes that affected a large number of people but did not necessarily have a large financial impact.<sup>123</sup> Fraud schemes targeting the Spanish-speaking community and Latino immigrants often fall into this category of smaller scams.<sup>124</sup> Since the DOJ no longer had the funding necessary to keep the program operational, it had to find a low-cost way to staff the program. A partnership with Willamette’s clinical law program provided the

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<sup>123</sup> Jeffrey Kosseff, *State Ends Help to Victims of Many Small-Time Scams*, THE OREGONIAN, Sept. 7, 2003, at A1.

<sup>124</sup> Interview, Caren Rovics, Assistant Attorney General, Financial Fraud/Consumer Protection Section of the Oregon Department of Justice, in Salem, Or. (May 14, 2008). Latinos are the fastest growing segment of the population in Oregon. The overall population increase in the State of Oregon from 1990-2000 was 20%, while the increase in the Mexican immigrant population for the same time period was about 300%, far exceeding population increases in any other immigrant group in Oregon. FAIR: Extended Immigrant Data for Oregon, [http://www.fairus.org/site/PageServer?pagename=research\\_researchd0a6](http://www.fairus.org/site/PageServer?pagename=research_researchd0a6) (last visited May 14, 2008).

Latino immigrants are frequently the target of consumer fraud schemes because of language and cultural barriers, as well as financial and immigration status vulnerabilities. See, e.g., Elizabeth Llorente, *N.J. to Crack Down on Fraud by Notaries: Immigrants Often Lose Money, Face Deportation*, N.J. REC., Sept. 11, 2007, at A04; Victor Manuel Ramos, *Immigrants Find Hang-Ups in Phone Cards*, ORLANDO SENTINEL, Sept. 26, 2007, at B1; Onell R. Soto, *Deceptive Ads Target Latinos, Experts Say*, UNION-TRIB., Feb. 1, 2006, at B3; Graeme Zielinski, *Hispanics are Being Warned of Phone Fraud Schemes*, HOUS. CHRON., Oct. 27, 1994, at A10.

answer.

Under the DOJ/Willamette partnership, consumer fraud complaints are submitted to the DOJ's financial fraud division where they are screened by a senior assistant attorney general for possible referral to Willamette's clinical law program. Referred cases are then reviewed by the clinical faculty and students to decide whether the clinic has sufficient capacity and interest to take on responsibility for the case. Once inside the clinic, the case is handled by two or more students working as legal teams, depending on the size and complexity of the case.

During the first two years that the partnership was piloted, two clinical faculty members were deputized as "special assistant attorneys general" ("SAAGs") by the Oregon Attorney General to allow them to supervise the students working on the DOJ cases directly at the law school.<sup>125</sup> The DOJ provided training to both SAAGs supervising these cases. During this period, the DOJ designated one of its senior assistant attorneys general to work with each of the Willamette legal teams in moving forward the cases in accordance with the DOJ's normal policies and procedures. The senior assistant attorney general would meet with each legal team at least one hour per week and communicate regularly by email and telephone regarding case strategy, investigation techniques, legal research and analysis, document drafting, etc. She also taught one of the class sessions on consumer fraud each semester.

The partnership has been recognized by all involved as a highly successful innovation. Clinical students report that the DOJ cases are some of the most interesting and rewarding cases they work on in the clinic, and the students have an impressive record of favorable resolutions. The attorneys at the DOJ have praised the clinical students' creativity in identifying legal infractions and generating successful case strategies. In just two years, the students have collected tens of thousands of dollars in fines<sup>126</sup> and repeatedly received prominent news coverage for their cases.<sup>127</sup>

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<sup>125</sup> Willamette also places students in the Financial Fraud/Consumer Protection Section of the Oregon Department of Justice through its externship program. However, the externs are supervised on-site by assistant attorneys general and normally do not get to serve as prominently in the management of the case, whereas the students in the clinic are given more direct responsibility for handling the cases. Several students have combined both experiences by pursuing unpaid externships or even paid clerkships at the DOJ, and, at a different time during their law school career, handling DOJ cases through the clinical law program.

<sup>126</sup> Any money secured by the clinic in DOJ cases goes either to the Consumer Protection Education Fund, providing funding for other financial fraud investigations at DOJ, or to the state's general fund if the money is collected pursuant to a judgment.

<sup>127</sup> Thelma Guererro, *Companies Face \$1M in Trade Fines for Oregon Dealings*, STATES-

For the first two years, the DOJ cases were offered through the general civil practice clinic while the viability of the partnership and the appropriateness of the cases were still being tested. However, a decision was recently made to use the DOJ cases to launch the law and government clinic as a specialized clinic starting in Fall 2008. To support this effort, the DOJ has agreed to loan one of its assistant attorneys general as an adjunct professor in the clinic at no cost to the law school. The adjunct professor is supported by a full-time faculty member and the clinical law program's staff.

Recently, students enrolled in the law and government clinic were also given the opportunity to participate in legislative advocacy and a facilitation project involving a local government entity. These are intended to provide students with a diverse introduction to the myriad roles that attorneys fulfill in government. The non-DOJ matters are supervised by a different clinical faculty member.

*c. Enriching The Program At No Cost To The Law School*

Another collaborative endeavor that Willamette undertook in the renovation of its clinical law program is a partnership with the Forensics Fellowship Program offered through the Psychiatry Residency Training Program at Oregon Health & Science University. Essentially, Willamette's clinical law program is one of the clinical rotations for psychiatrists training at OHSU to specialize in forensic psychiatry. The forensic psychiatry fellows spend two days per month in the clinical law program offices meeting with students, evaluating clients, drafting reports and providing expert witness testimony in clinical law program cases. The forensic psychiatry fellows also teach two clinic classes per semester to introduce students to psychiatry in the legal context, and are available throughout the semester to answer questions from faculty and students via telephone and email.

The collaboration costs Willamette almost nothing out of pocket. The clinic director teaches in OHSU's Forensic Fellowship Program twice per year and completes assessments on the fellows' performance from an attorney's perspective every semester. The Willamette faculty members are also expected to mentor the fellows, introduce them to the civil litigation system, and help train them to be persuasive and effective expert witnesses. Finally, clinical faculty members are expected to participate in the interview process of applicants to OHSU's Forensic Fellowship Program. However, these responsibilities are relatively minimal when one considers the value of having a

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MAN J., Oct. 10, 2007, at 1A; Thelma Guerro, *WU Law Students' Work Exposes Possible Fraud*, STATESMAN J., Aug. 17, 2007, at 1A; *Lawsuit Filed Over English Classes*, THE REG.-GUARD, Aug. 18, 2007, at D2.

licensed psychiatrist on hand and available on a pro bono basis to the entire clinic. This partnership is now in its third year and the forensic psychiatry fellows have already provided expertise in a variety of ways such as:

- conducting a psychiatric evaluation of a client;
- helping to interpret the medical and pharmacological records of a mentally ill client;
- advising students on how to manage a difficult interview of a client with borderline personality disorder;
- conducting a custody evaluation; and
- providing expert witness testimony.

Willamette's partnerships with both the Oregon Department of Justice and Oregon Health & Science University are reminders that clinical law programs can be enriched without significant additional funding if one focuses on intersections of interests and a view towards collaboration.

Of course, this is not to suggest that either relationship is perfect. For example, we cannot always control the quality of the psychiatric fellow or the cases referred to us by the DOJ. Moreover, we sometimes have to compete with other commitments and priorities for the attention of those who work in the clinic on a part-time basis (either paid or unpaid), including our students. Nonetheless, semester after semester we conclude that the value of the partnerships far outweighs the costs, especially for a program of high ambitions on a limited budget.

#### *F. Beyond Bucks And Bricks: Programmatic And Personnel Changes*

Beyond the glamour of multi-million dollar endowments and new buildings for renovated clinical law programs and the vision of idealized clinical programs embodied in optimistic strategic plans, there are the gritty changes involving the program's students, clients, faculty, and staff that are implemented in the day-to-day operation of a program in transition. These changes often involve the most dangerous and controversial decisions. Whereas, few will criticize efforts to fundraise for a program or to provide better, more dignified facilities for a core law school program, decisions about course standards, clinical faculty and personnel, and curriculum reform prove to be potentially polarizing.

##### *1. Renovating Course Standards*

###### *a. Increased Hours*

A complete renovation of clinical course standards was under-

taken simultaneous with fundraising, facilities development, and strategic planning. The number of hours required for course credit was increased to 52 hours of clinic-related work per credit unit. Although a number of students complained about the increased hours requirement, a survey of hours requirements at other clinical law programs nationally established that Willamette's new hours requirement was consistent with requirements at other law schools.

*b. Increased Responsibility*

The increased number of hours was accompanied by an increase in student responsibility for the cases and transactions handled at the clinical law program. Students are now expected to assume the role of "lead attorney" (as compared to "junior associate") on most of their cases and transactions. This change requires them to take responsibility for almost all client interviews, case strategy, court appearances, research and drafting, etc., under faculty supervision. Surprisingly, this new dynamic of responsibility initially generated some pushback from students. The new standards of responsibility and accountability help ensure that most clinical law program students experience the awesome responsibility of having another human being or a non-profit entity depend on them to protect life, liberty, or property.

As part of their responsibility for managing their cases, each of the clinical law program student partnerships is now required to draft a monthly strategy memo outlining what needs to be accomplished to bring the case to favorable resolution. Subsequent strategy memos document what has been accomplished and how the strategy has changed since the previous memo. These strategy memos are reviewed by the entire legal team assigned to a case, including the supervisor, and placed in the legal file. When a matter is closed, a closing memo is prepared and included in the file prior to archiving. If a case is still active at the end of the semester, the legal team responsible for the case drafts a "transition" memo to the next pair of students inheriting the case.

*c. Increased Supervision And Assessment*

The students' rise in responsibility necessitated an increase in supervision and assessment. Thus, a new policy was implemented that required students to meet with their supervisors at least one hour per week to review their legal matters in person.<sup>128</sup> In addition, supervi-

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<sup>128</sup> Previously, the clinical faculty and staff simply maintained an "open door" policy that allowed students to come in whenever they believed they required supervision. While the open door policy was maintained so that students could meet with their supervisor more than one hour per week, the weekly meetings became a minimal standard that was

sors always accompany clinical law program students to court appearances and depositions. The supervisor also observes client interviews at the beginning of the semester, and continues to observe until it is determined that the student is proficient at interviewing (sometimes this takes several weeks, sometimes it lasts all semester). The supervisor accompanies students to most board meetings. Supervisors review and sign all documents before they are sent to a client, opposing party, or filed with the court. After each of these events, students are normally provided feedback on their work.

In addition to ongoing feedback in the weekly meetings and other more organic interactions, all clinical law program students now have a formal mid-term evaluation. In preparation for the mid-term evaluation, each student completes an extensive self-assessment and compiles a portfolio of his or her redacted written work thus far.<sup>129</sup> The portfolio has several purposes. First, it provides the student with a fledgling forms file that he or she can take into practice and further develop over time. Second, it provides students with a physical memento of all of their hard work at the clinic. Third, it provides the supervising faculty member with an organized compilation of each student's work product, which can help inform a thoughtful and complete assessment of the student's performance.

A formal 360-degree assessment is also conducted at the student's exit interview at the end of each semester. In preparation for this meeting, each student completes (1) another self-evaluation (comparing progress to the earlier self evaluation), (2) an evaluation of his or her clinic partner,<sup>130</sup> and (3) an evaluation of the clinical law program.<sup>131</sup> Consideration has been given to adding assessments from clients and opposing counsel, but neither of these ideas has yet to be adopted. At both the mid-term evaluation and the exit interview, supervising faculty try to give students the lead role on identifying strengths as well as challenges and only supplementing when necessary.

#### *d. Revamping The Curriculum*

Efforts were also made to improve the classroom component of

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recognized as valuable by the supervisors and students alike.

<sup>129</sup> The value of portfolios as an assessment tool was recently recognized in WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 174-175 (2007).

<sup>130</sup> Although most students recommend inflated grades for their partners, the narrative portion of the evaluations is usually highly accurate and insightful as to the strengths and weaknesses of the other student's performance.

<sup>131</sup> The clinical law program evaluation is in addition to the course and instructor evaluation circulated by the law school at the end of every semester.



the clinical courses. A brief reflective writing and discussion component was added to the beginning of class.<sup>132</sup> This is usually followed by administrative matters (“housekeeping”) where potential new cases are discussed, successes are recognized, and clinic or case issues are covered. The rest of the class is devoted to a mix of substantive lectures, drills and simulations, case rounds presentations, and guest speakers.

In addition to revamping the curriculum internally, external structural changes were made. The law faculty approved an advanced clinic, which allows students to enroll for a second semester of clinic with approval.<sup>133</sup> Advanced clinic has been one of the main successes of the reconstruction with approximately forty percent (40%) of students applying at the end of fall semester to return for the spring semester.<sup>134</sup> Advanced clinic students are expected to provide leadership and mentoring to incoming clinical students and provide continuity on cases that last longer than one term. Advanced clinic students are welcome to continue in their original clinics or to enroll in a different clinic to diversify their practice experience. They attend fewer class hours and devote more of their clinic hours to actual case work. They usually partner with incoming clinic students and receive letter grades.<sup>135</sup>

A sliding scale for the number of academic credits earned was also instituted based on the feedback from the student survey. Thus, students can now enroll for as few as two credits or as many as four in a given semester. This allows students to customize their clinic responsibilities to their own professional goals as much as possible without compromising the per-credit hours requirement. Since this

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<sup>132</sup> The reflective writing component is called “Summary Notes.” The component normally requires 2-3 minutes of writing to focus the students’ attention right at the beginning of class. The summary notes topic is usually related to the class topic or issues related to current clinic matters. For example, a summary notes topic might be “What is the most challenging aspect of interviewing clients? What is the most rewarding?” or “Is lawyering more of a business or a profession? What is the difference between the two?” A class discussion then ensues for 3-10 minutes. In addition to focusing students’ attention, summary notes are intended to help students to develop habits of reflection. Students include their summary notes entries in their individual portfolios of their clinic work. Some clinic alumni may dust off the covers of their portfolios some day and recall their perspectives on these new professional experiences when they were still in law school and first venturing into practice.

<sup>133</sup> Approval for enrollment in the advanced clinic is vested in the clinic director. However, a significant amount of deference is given to the student’s primary supervising faculty member.

<sup>134</sup> The percentage of spring semester students who apply to return in the fall is much lower, presumably because most clinic students are third-year students who graduate at the end of the spring semester.

<sup>135</sup> Regular clinical students receive Honors, Credit, or No Credit. There is also one high distinction notation awarded to one student among all of the clinics combined.

requires some careful planning regarding case loads, students can increase their credits throughout the semester, but never decrease them. As a result of these changes, students at Willamette can now earn up to eight credits in clinical courses, whereas previously they could only earn three. This allows students to experience a greater variety of legal matters or to delve more deeply into a select few.

*e. Resistance And Support*

Obviously, these changes require more time and energy from faculty, staff, and students alike, and the transition was not without resistance. However, most individuals recognized that these (or similar) changes were necessary if the clinical law program was going to become a better and stronger program. Thus, many people involved with the clinical law program in recent years have made considerable efforts to implement and achieve these higher standards.

When complaints were conveyed to the administration, the law school dean assured that he stands behind the reconstruction efforts resolutely. The unfailing support of the administration is critical to this kind of renovation. Fortunately, the support paid off. It did not take long for word to get out to the student body, and as supporters braced for a drop in enrollment once word spread about the tougher standards in the clinical law program, the exact opposite occurred: enrollment actually rose by almost one-third. Since then, enrollment has consistently and significantly exceeded enrollment prior to the most recent phase of the reconstruction.<sup>136</sup>

*2. The Human Element*

Of course, no program will flourish if it does not nourish the individuals involved. Thus, thoughtful consideration has focused on meeting and balancing the needs and goals of clients, students, and faculty and staff alike. While imperfect, a conscious effort is made to strive towards some level of individualization for all stakeholders within reason.

*a. Serving Fewer Clients Better*

The most significant change made with respect to clinical law program clients was client selection. Historically, the clinical law program would only accept cases that were referred by a few select third party agencies. Almost all matters referred were placed on a waiting

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<sup>136</sup> Enrollment in the clinical law program increased 42 percent for the period Fall 2005 to Fall 2008 from the preceding eight years. From the lowest point in the clinic's recent enrollment history (past ten years) to today, we have witnessed a 600 percent increase in the number of students trying to enroll in the clinical law program.

list without further screening. When capacity became available, the next matter on the list was activated as a client if the matter were still pending.

Now, the clinical law program considers all cases, regardless of whether it has been screened by a third party or arose from a “walk in,” similar to the cases accepted by Willamette’s first legal clinic in the 1940’s. If the individual has a legal matter that falls within one of the clinic’s practice areas and there is resource capacity and student interest, the case will at least be seriously considered. Moreover, occasionally a client may have a related matter that does not fall neatly within one of the practice areas. If the matter is discrete, the clinic faculty and students might decide to provide advice or representation on a limited basis. However, this has become the exception, rather than the rule. More often, clients and potential clients with legal needs outside of the primary practice areas are referred to other attorneys or agencies for representation.

Moreover, an effort has been made to limit the number of clients represented. Students now work on fewer cases (normally 2-4 legal matters per partnership per semester). This allows students to take on a larger role in each individual matter and to “work up” their cases more thoroughly. Interestingly, a higher level of favorable resolutions began to be observed in matters handled through the clinic after this change was made. Fewer clients are being served, but many of the clients served are receiving better service.

#### *b. Engaging Students*

An effort has also been made to customize our program to individual students, while maintaining uniform standards, as much as possible. At the beginning of every semester, each clinical law program student completes a two- to three-page essay that outlines his or her goals for their clinical experience that semester and informs the clinical faculty members what they can do to support the student in achieving those goals. One of the messages sent to the student in requiring the essay is that they are responsible for their professional development. An equally important message is that the clinical faculty members are there to support them in achieving those goals: we are interested in them as individuals and want to individualize their clinical experiences as much as possible to make clinic relevant to them.<sup>137</sup>

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<sup>137</sup> Students today, especially adult learners, bring a postmodern, technology-dependent understanding to the classroom. See generally *EDUCATING THE NET GENERATION* (Diana G. Oblinger and James L. Oblinger, eds. 2005), available at <http://www.educause.edu/EducatingtheNetGeneration/5989>. As opposed to the traditional style of the professor lectur-

(1) *Allowing Students To Choose Their Own Clinic Partners*

One of the ways the clinical experience is tailored to the individual students and their goals is allowing them to select their own clinic partners.<sup>138</sup> Historically, students were assigned partners on a lottery basis with little input from the students. Although some would argue that this approach was realistic because attorneys often have no control over the selection of their colleagues, especially early in their careers, the clinical faculty respectfully disagreed with this perception. They believe that attorneys have tremendous power to control the nature of the work they do and the kinds of colleagues with whom they work. Since most adults spend the majority of their waking hours at work with colleagues during their income-generating years, it is critical to choose one's work and one's colleagues intentionally and thoughtfully. By allowing students control over their selection of clinic partners, a teaching moment is created that allows students to reflect and act on who they are and what they need in a professional partner both at the beginning of the semester when partners are selected and at the end of the semester when partners evaluate one another's performance, and often in between.

It is interesting to note that the frequency of conflicts between partners does not seem to have decreased significantly in the three years since this practice was implemented. However, the direction of the blame has changed. When conflicts would arise between partners before, the conflicts were inevitably blamed on the fact that the students did not have an opportunity to select their own partners. Now, the students must take responsibility for the choice they made in partner selection. They chose their partners and thus are compelled to stand accountable for and reflect on their choice, so they do not repeat the same mistake in the future. They learn that the same characteristics that make someone a fun or exciting friend do not necessarily

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ing the material to the students, the new generation of students, brought up on free access to the internet, innately desire to discover truth for themselves in a way that is engaging and interactive to them. Mark Taylor, *Postmodern Pedagogy: Teaching and Learning with Generation NeXt*, MCLI FORUM, Spring 2005, at 4, 4-5, available at <http://www.mcli.dist.maricopa.edu/forum/spr05/mcliForumV9Sp05.pdf> (last visited Sept. 28, 2008). College and post-graduate students also believe they are consumers of their education, acutely aware that they pay for a service from their university, and accordingly believe they have a right to demand certain promises be kept and if not, they will spend their money at a different institution. *Id.*

<sup>138</sup> Students who are unable to find or select a partner for whatever reason are assisted by the clinical faculty and staff in finding a partner. The advantages and disadvantages of allowing students to select their own clinic partners was explored in David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199 (1994).

make that person a responsible and productive colleague.

Allowing students to choose their own partners has been successful in other respects. It is not unusual for students to enroll in clinic specifically to engage collaboratively with their fellow students. Friends or small groups of friends enroll in clinic together, knowing that they probably will be able to work together. This has helped to create a friendly and collegial atmosphere in the clinical law program.<sup>139</sup> It also seems to have increased the students' productivity and ability to work in teams. It is not unusual for students to be seen in the evenings or on weekends in the clinic offices working with their partners on clinic-related work. Importantly, they seem to be enjoying themselves. There are many studies that suggest that lawyers, as a group, are an unhappy lot.<sup>140</sup> If clinical faculty can help students to discover some of the joys of lawyering—doing work we enjoy with people we like—our students will have a touchstone to carry with them throughout their professional lives.

## (2) *Integrating Students Into The Case Selection Process*

In addition to allowing students to select their own partners, the clinical faculty also tries to individualize students' clinical experiences in other ways. For example, students are allowed to request certain cases. At the second class of the semester, all of the open or potential cases are presented to the class with brief summaries on the nature of the cases or transaction. After students are matched with their partners, each partnership submits their preferred list of legal matters in order of preference. The clinical faculty members try to match as many of the cases as possible to the students' top choices. Almost without exception, every partnership gets at least one of their top three choices.

Although the clinical faculty members give preference to students who select cases within their specialized clinic's area of practice in as-

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<sup>139</sup> Other efforts have been made consciously to create a collegial environment in the clinical law program. These include retreats for students, staff and faculty, at least one class dinner each semester, and an achievement award for each participating student. These events are intended to highlight and supplement—not replace—efforts to create a working environment of respect, support, and professionalism on a daily basis.

<sup>140</sup> Only 55% of lawyers surveyed reported being satisfied with their careers. Stephanie Francis Ward, *Pulse of the Legal Profession*, A.B.A. J., Oct. 2007, at 30, 32. Lawyer satisfaction is similar to accountants and car salesman, have high rates of attrition, and many suffer from much higher rates of depression and drug and alcohol addiction than non-lawyers. Deborah L. Rhode, *Foreword: Personal Satisfaction in Professional Practice*, 58 SYRACUSE L. REV. 217, 219-220 (2008); *See also* Peter H. Huang & Rick Swedloff, *Happiness and Meaning at Law Firms*, 58 SYRACUSE L. REV. 335, 335-339 (2008). *See generally* JEAN STEFANCIC & RICHARD DELGADO, *HOW LAWYERS LOSE THEIR WAY: A PROFESSION FAILS ITS CREATIVE MINDS* (2005).

signing cases, they also recognize that clinic is an opportunity for students to try and compare different practice areas. Every semester, clinical law program students reveal that their clinical experience has helped them to realize that they want to practice in a particular area or has convinced them that they do not want to ever practice in a certain area again. These are important lessons for students to learn early in their legal careers. Thus, the clinical faculty members try to allow students to experiment with different practice areas during their clinic enrollment, even if it takes them across specialized clinics within the same semester.<sup>141</sup>

When prospective legal matters arise during the course of the semester, the clinical faculty members again try to include the students in case selection. The prospective matter is first screened by the clinical faculty member in charge of each individual clinic to ensure that the matter would be appropriate for clinic representation. If approved by that faculty member, the prospective matter is presented to the full clinic for consideration. If no students express interest, representation is normally declined. If a partnership is potentially interested, they conduct an initial interview of the potential client and some factual investigation to decide whether or not it is a case they would like and could become qualified to handle. If so, the partners present the potential legal matter to the full clinic for a vote as to whether the clinic should agree to provide representation in the matter.

Although most matters that proceed to a class vote are approved, a number have not been. The class discussions surrounding the rejection of cases have been highly enlightening to students and faculty alike. For example, it is not unusual for classmates to help one another to recognize that the case they would like to take on is likely to entail far more time and energy than the students anticipate. The students have also recognized that given the clinic's limited resources, we cannot represent everyone that we would like to, and thus, must prioritize whom we agree to accept. Thus, students have denied representation to one client one week, even though we had capacity, knowing that a needier client would likely knock on our door before the end of the semester. Other discussions have focused on ethical conflicts and the clinic's mission.

A benefit to this change is that once again students can blame no one else for the choices they make. If they find that they do not enjoy a particular area of practice, or a client turns out to be dishonest or

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<sup>141</sup> When clinical students or partnerships are handling legal matters across different specialized clinics, they are required to meet with each supervising faculty member for each matter every week of the semester.

unreliable, the students have to accept responsibility for the consequences of their choice. Moreover, teaching moments are created that allow the clinical faculty members to lead reflections on what the students can learn for the future about selecting certain types of clients or legal matters. These learning opportunities complement the inherent need to guide the students on how to work through the immediate difficulties by expanding the analysis from the point of choice of representation to the future selection of cases.

The students have consistently praised this change in the reconstruction of the clinic. They have noted that allowing students to participate actively and often decisively in the selection of cases, makes them powerful stakeholders in the law school's clinics, and helps them to view themselves as the legal professionals they are rapidly becoming.

### (3) *Supporting Students' Time Management*

The clinical law program faculty members have also tried to individualize clinical experiences for students by accommodating time constraints within reason. One of the main reasons that students reported they were not enrolling in clinic was that they perceived it as requiring too much time. Thus, as mentioned previously, the law school faculty approved a sliding scale for credits, which allowed students to enroll in clinic for as few as two and as many as four credits in any given semester.<sup>142</sup> This has been advantageous both for those students who would like to experience law practice through clinic, but do not have sufficient time available, as well as students who go well beyond the required hours in clinic, but receive no additional academic credit for the time spent.<sup>143</sup>

Students are also welcome to individualize their weekly work schedules, again within reason. They are expected to devote a certain number of hours to clinical practice every week. At least four of those hours need to be onsite, at least two of which must overlap with their

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<sup>142</sup> Students indicate the number of credits they would like to earn when they enroll in the clinic. Although they can increase their credits at any point during the semester, they cannot decrease them. Thus, the clinical faculty can better anticipate how many legal matters can be handled that semester and plan accordingly.

<sup>143</sup> Historically, when clinic students exceeded their requisite hours with their clinical work, they were encouraged to record the hours as pro bono hours so that they would receive a pro bono award at the end of the year for their service from the university as well as the state bar. However, the students received no academic credit for those hours. Now, students can decide whether they would prefer to earn more academic credit or receive a pro bono award. While some prefer to receive a pro bono award, most opt for additional academic credit. Of course, there are still a few students who even exceed the 208 hours required for four academic credits. These students will often receive a pro bono award for the additional hours, if the excess is at least 20 hours.

partner's schedule. Their weekly meetings with their supervising faculty members are scheduled collaboratively at the start of the semester to accommodate everyone's schedule. This combination of accountability and flexibility seemed necessary since there were rumors of clinical students being missing in action historically. However, if the scheduling became too rigid, it could further dissuade students from enrolling in what was becoming an increasingly demanding program. Thus, some compromise was necessary. The students, of course, had to attend their client meetings, court appearances, board meetings, etc. However, when it came to questions such as, "Can clinic students work from home a few hours per week?," it seemed that we could treat them the same as any new attorney. They are professionals and would be treated as such unless and until they demonstrated that they were ill deserving of the responsibility entrusted to them.

Overall, student feedback about the level of responsibility and individualization emphasized in the reconstructed clinical law program suggests that the right balance has been found.

*c. Raising Clinical Faculty Morale*

The reconstructed clinical law program also strives to raise faculty morale by supporting the professional growth of the individual members of the clinical faculty. For example, all of the full-time clinical faculty members are eligible for research grants and research assistants to support their scholarship, and have access to travel funds to support research- and conference-related travel. Moreover, clinical faculty members can request one "scholarship day" per week to work on their writing throughout the academic year,<sup>144</sup> and research sabbaticals are provided to those clinical faculty members whose express responsibilities include scholarship.

Three of the faculty members teach courses outside of the clinical law program, and a former clinical faculty member recently migrated from a full-time clinical faculty position to a full-time doctrinal position. Summer coverage was funded to allow one of the clinical faculty members to teach in an overseas program, and clinical faculty members are free to decide whether or not to teach summer courses at the law school (assuming there is a need). In other words, as with the students, the reconstructed clinical law program does not rely on a "one-size-fits-all" model when it comes to faculty. Rather the clinical law program is intended to support the professional growth and en-

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<sup>144</sup> The first year this "scholarship day" policy was implemented, two full-time clinical faculty members published three law review articles and one academic essay between them.



gement of individuals.

Of course, the flip side of that support for the growth of the clinical faculty is that they must be accountable for fulfilling their professional obligations, both clinical and non-clinical. In working on the reconstruction of Willamette's clinical law program, the clinic director had the opportunity to consult with a number of other schools whose clinical law programs were undergoing or in need of a reconstruction. One of the most common complaints she heard was of a few underperforming clinicians who were very senior, and thus, commanded relatively large salaries, and enjoyed the security of permanent appointments (tenure or long-term contracts). Because all of the clinicians at Willamette were on short-term contracts, the reconstruction at Willamette did not require anyone to tackle this monumental issue. However, the issue that is common to all clinics that are underperforming is how to motivate and support each individual clinical faculty member so that he or she can fulfill his or her potential, and a sincere effort was made to do that at Willamette.

Today, there are two significant continuing challenges at Willamette vis-à-vis faculty development. The first is that the full faculty and administration need to work together to ensure that all permanent, full-time clinical faculty members enjoy an equal status with their non-clinical colleagues. Although the school has made significant progress by converting the director's position to a tenure-track position, allowing tenured faculty to participate in clinical teaching and supervision, and converting a second full-time clinical position from indefinite short-term contracts to a series of short-term contracts followed by long-term presumptively renewable contracts, there are still discrepancies in status that will need to be resolved before the reconstruction is complete.

The second is staffing. Willamette now has clinics to complement all of the certificate programs except dispute resolution. As exciting as this growth is, the rapid launching of these clinics has created its own set of problems, including staffing and enrollment. While Willamette recently hired its second, full-time permanent faculty member to start an international human rights clinic to complement the certificate program in international and comparative law, more faculty are needed. Two full-time faculty members cannot provide quality supervision across five to six different practice areas. Thus, in the short term, Willamette has made funding available to hire adjuncts to assist the permanent clinical faculty and allowed the participation of tenured faculty in clinical teaching and supervision. However, Willamette must continue to find (and fund) ways to provide permanent, high-quality supervision in each of its clinics.

#### IV. MARKETING THE CLINICAL LAW PROGRAM

One of the final elements of the renovation of a program is marketing. Willamette has made a concerted effort to market its renovated clinical law program both internally and externally. When issues such as under enrollment and inadequate funding are targeted, it is not enough to make changes and improvements. The school must get the word out to students, alumni, the community, and even non-clinical faculty about successes and advancements, as well as challenges.

##### A. *Raising Student Awareness*

In light of the responses to the student surveys that students do not have much information about the clinical law program, an aggressive campaign was launched to tell them about the program early and often. Thus, the law school created professional brochures, launched a new clinical law program website, and includes regular features about the clinical law program and its faculty in university publications.<sup>145</sup> The clinic director is invited to speak to potential students at “preview day” and to meet with incoming students at orientation. She and the other clinical faculty and staff are also encouraged to attend as many law school events as possible.

When newsworthy events occur such as favorable judgments, appellate arguments, and news coverage, an email is sent to the entire student body.<sup>146</sup> Moreover, at the start of every registration period, multiple red sheets of paper are placed on the doors and windows of the main law school building. The “red sheets” say things in large font like:

- “We taught you how to think like an attorney. Now we want to teach you to be one.”
- “Did you file a brief with the Oregon Supreme Court recently? One of your classmates did.”
- “Did you negotiate a \$250,000 settlement this semester? One of your classmates did.”
- “Did you take your own case to trial this semester? Six of your classmates did.”

The bottom of every red sheet reads: “Clinic. Don’t leave school

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<sup>145</sup> For example, the university published several articles about the clinical law program and its faculty on the university website, in the law school’s annual magazine, and in the president’s annual report. In fact, the feature article in the law school’s annual magazine in Spring 2008 focused specifically on the clinical law program.

<sup>146</sup> The previous clinic director had published a regular clinic newsletter and distributed it to the student body and faculty. Although the current clinic director considered continuing this practice, she decided instead to increase the utilization of email to share announcements and successes with the law school community as they were happening.

without it.” The “red sheets” have generated positive feedback from students and faculty alike.

Also, just before every registration period, an information session on clinical opportunities is offered. The sessions are open to and advertised via email announcements to the entire student body. Inserts with detailed information about the clinical law program are included in every student’s registration packet, and the staff of both the admissions office and career services actively promote the program to students who express interest or who are identified as a good match for the law school’s clinical offerings.

In addition to these more direct “marketing opportunities,” it is recognized that “word of mouth” is one of the most powerful factors influencing what courses students take. Thus, a conscious effort is made to work hard to ensure that students have positive clinical experiences, so that they can share their experiences with other students. In addition to the academic and legal aspects of the program, which are discussed more fully above, the clinical faculty tries to incorporate professional and social elements into the program (reflecting the professional and social aspects of lawyering). For example, every semester, the clinical faculty hosts at least one clinic dinner at one of their homes and tries to organize a weekend retreat for clinic students at a lodge owned by the university.<sup>147</sup> Students’ feedback about both the clinical law program dinners and the retreat have been consistently positive, with a number of students saying that their memories of the clinic retreat were some of their best memories of law school.

In addition to the informal marketing benefits of having students enjoy aspects of the clinical law program (especially given its reputation for requiring hard work and being time consuming), there is some direct marketing that is built into these events. For example, at the first dinner, each new student in the clinical law program is given a t-shirt that says, “Willamette University College of Law” on the front and, “Clinical Law Program,” on the back. It is not unusual to see students donning their “Clinical Law Program” t-shirts proudly

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<sup>147</sup> The clinic retreat is a highlight of the semester for many students. Attendance is optional and usually 1/3 to 2/3 of the students come for some portion of the weekend. The lodge is only 35 minutes from campus and has hiking, fishing, rafting, and golfing nearby. The clinical faculty and staff host the retreat and cook for the students, enjoying the opportunity to get to know them even better.

At the first clinic retreat, an effort was made to develop a rigid program for the weekend, including scheduled sessions on evaluating the program and strategic planning. However, these proved to be awkward and not particularly productive. Thus, all subsequent retreats have focused on facilitating balance and collegiality with open schedules other than one faculty-hosted dinner Saturday night.

Because the lodge is owned by the university, costs are minimal. The clinical law program pays for food and a small rental fee charged by the university for use of the lodge.

around the law school. Moreover, all clinic students are welcome to bring “loved ones” (friends or family) to both clinic dinners and the retreat. Casual observation suggests that a significant number of the students who attend as guests later enroll in the clinical law program themselves.

An effort is also made to utilize cross-marketing opportunities at the law school by having clinical faculty volunteer to serve as moot court judges, teach non-clinical courses, and be actively involved in all aspects of law school life from student advising to graduation activities. It is believed that if students work with a clinical professor in a non-clinical setting and have a positive and engaging experience, those students will be more inclined to choose a course taught by that professor again even if the course is a clinical one with a reputation for being challenging and time intensive.

These marketing efforts, along with other aspects of the program, appear to be paying off. For the current semester, approximately 42 students attempted to register 54 times for a program with a maximum of only 28 spaces. Less than five years since the most recent phase of the reconstruction, enrollment increased by 400% and, if all students on the clinics’ waitlists could be accommodated, the enrollment would have increased by 600%.

### *B. Marketing To The Public*

The marketing of the clinical law program within the law school is not the only public relations priority. It is also critical to raise awareness of the program in the public eye. Both the law school and central university administration at Willamette have worked to identify opportunities to raise awareness off campus about the clinical law program and its successes. Some of these efforts are obvious. For example, news releases regarding clinic successes are sent out regularly by the university’s public relations team, two of which have led to front-page stories with local media in the past year alone.<sup>148</sup> The public relations team also recommends clinical faculty for commentary interviews and the placement of op-ed pieces in their areas of expertise.

However, some efforts are more subtle. For example, at one point, the university adopted new stationery with the same format and logo that could be adapted to any of the university’s schools, departments, or programs. However, no one at the clinical law program ever ordered the stationery. Thus, the program was left using letterhead that was created internally by clinical staff using a variety of Word

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<sup>148</sup> See *supra* note 127.

fonts. Although the clinical staff did a very good job, there was no imagery or logo connecting the clinical law program to Willamette University except the name of the university in relatively small font. In order to create a “branding” of the clinical law program as part of Willamette University instead of a free standing legal aid clinic, the standard university stationery and business cards were ordered for everyone affiliated with the clinical law program, including students, so that the clinical law program had consistent, professional imagery associating it with the rest of the university.<sup>149</sup>

Human interaction with members of the larger community is another crucial element in marketing the clinical law program. Thus, clinical faculty are expected to perform community service and encouraged to attend local bench, bar, professional, cultural, and fundraising events. Willamette also hosts a number of events for the local community (including the open house previously mentioned) that provide opportunities for networks to be established between clinical faculty and students and members of the bench and bar.

Support for the clinical faculty is not limited to local events, however. Willamette recognizes that clinical faculty members are part of a national and global community of legal educators and scholars and thus provides clinical faculty funding for scholarship and participation at conferences. Their participation not only advances their scholarship, it serves to promote the reputation of the school and the clinical law program in the legal education community.

An effort has also been made to reach out to the clinical legal education community. The law school pays for its clinical faculty's membership in both the Clinical Legal Education Association and the AALS Section on Clinical Legal Education and regularly provides press releases to their newsletters regarding developments with the clinical law program. Clinical faculty also subscribe to various listservs devoted to clinical legal education.<sup>150</sup> These listservs provide access to many of the leaders in clinical legal education today and are an incomparable source of knowledge and expertise in the area. Finally, clinical faculty are encouraged to help organize, attend, and present specifically at clinical conferences and designated funding is made available for their participation. This funding has been used to send both clinical faculty and staff to regional and national clinical conferences; indeed, seven presentations have been made by Willamette cli-

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<sup>149</sup> The students' business cards were not personalized, but rather read “Certified Law Student” or “Law Clerk,” and would provide the main clinical law program telephone number. Students would have to write in their names before handing out the cards to clients, opposing counsel, et al.

<sup>150</sup> See *supra* note 112.

nicians at various clinical conferences in the three years since this funding was provided. These opportunities advance the reputation of the individual clinicians, as well as the law school that sends them.

*C. Keeping The Non-Clinical Faculty And Administration Informed*

Another important constituent that needs to be apprised of clinical law program developments is the non-clinical faculty and administration. The challenges inherent in navigating ethical boundaries between law school clinics and non-clinical university administrators have been the subject of considerable discussion and impressive scholarship.<sup>151</sup> On the one hand, law schools and universities usually provide most if not all of the funding for clinical law programs, and they want to ensure that the programs are high quality and their activities reflect well on the school overall. On the other hand, clinical faculty enjoy the same academic freedom as non-clinical faculty and may feel compelled to handle legal matters that are controversial or unpopular, which may anger certain alumni, trustees, or other powerful individuals in a position of influence.<sup>152</sup> To further complicate the relationship, the fundamental professional duties of confidentiality and putting the client's interests first also may prevent clinical faculty from being able to inform and consult with the non-clinical faculty and administration as much as they would like (and vice versa). Finally, there must be clear boundaries between the law practice in the clinical law program and the rest of the law school so that if there is legal exposure for malpractice, the exposure does not extend beyond the individuals covered by the malpractice coverage obtained by the clinical law program. Despite these complicating factors, this tenuous dance is not without hope.

In the case of Willamette, the clinical law program was always kept at a relative distance from the law school, at least in recent years. The program had separate facilities, its own computer network, its own letterhead, and a clinical staff member maintained all of the program's technology. Several years ago, the dean reached out to the clinic director and explained that he hoped for the clinical law program to become more integrated with the law school overall. Thus, they began to work collaboratively to open up lines of communication with both the non-clinical faculty and administration (still respecting confidentiality obligations and academic freedom, of course) while moving towards a more integrated relationship physically and programmatically.

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<sup>151</sup> Robert R. Kuehn & Peter A. Joy, *An Ethics Critique of Interference in Law School Clinics*, 71 *FORDHAM L. REV.* 1971 (April 2003).

<sup>152</sup> *Id.* at 1976-92.

The non-clinical faculty now receives announcements of press releases and clinic developments and successes. Formal “State of the Clinic” presentations are also made at faculty meetings. The State of the Clinic presentations inform the full faculty of advances and challenges in the clinical law program’s reconstruction, as well as provide a forum to answer faculty questions and solicit suggestions and concerns. These formal communications are built upon continuous dialogue with both the law school faculty and the administration on matters ranging from course changes to new hires in the clinical law program. Hopefully, these open lines of communication ensure that everyone at the law school is generally aware of the clinical law program and the progress that is being made with its renovation as well as challenges encountered along the way.

## V. LOOKING BACK, LOOKING FORWARD

The other critical component to a successful renovation of a clinical law program is program assessment, including revisions and updates to the strategic plan. Unfortunately, Willamette is only now beginning its program assessment process. However, considerable thought has already been given to what it should entail.

Effective and accurate assessment of a renovated clinical law program requires a multi-lateral process on a periodic basis. Both objective and interpretive data should be considered from as many relevant sources as reasonable and appropriate, such as students, clients, faculty and staff, the judiciary, and opposing counsel.

The assessment should not only consider the structural components of the program (faculty-student ratio, organization, student enrollment, etc.), it should also measure program outcomes (student success at mastering specific knowledge and tasks, success in cases and transactions, professional development and advancement of faculty, etc.). The assessment should take into account any guiding principles identified and adopted beforehand. For example, at Willamette, it was agreed that assessments of the renovated program should determine whether it is achieving success in the following areas:

- Modeling best practices in every respect
- Giving considerable responsibility to students
- Providing solid legal services to clients
- Creating a collegial and professional environment
- Supporting students in the development of intentional and reflective practices

Where these purposes and principles are not being met, the assess-

ment team<sup>153</sup> should try to determine the reasons why and make appropriate recommendations.

In developing appropriate assessment instruments, the assessment team should be familiar with resources regarding “best practices” standards for legal education and, especially, clinical legal education.<sup>154</sup> None of these resources (except express ABA standards) needs to be adopted wholesale. Rather each should be critically reviewed, so as to select standards and opinions that are useful and relevant to the unique needs of each individual school.

In addition to a formal regular assessment, the assessment team should periodically measure the success of the program in meeting the goals stated in its strategic plan periodically. Changes and revisions to the original plan should be considered and implemented as appropriate.

Finally, the results of the assessments along with appropriate recommendations for further changes and improvements should be communicated to various stakeholders. These may take the form of a section in an annual report or a “State of the Clinic” presentation, for example. Regardless of the vehicle, the report of the assessment results should include an express statement of what specific support is needed from others to further advance the program’s renovation.

#### CONCLUSION

The story of the reconstruction of Willamette’s clinical law program spans more than two decades and involves hundreds of people and numerous challenges. The many facets of the reconstruction provide lessons to other law schools faced with or in the midst of a reconstruction of their own clinical law programs. There are many critical components to any law school clinic renovation, ranging from curriculum reform to practice standards to student and faculty morale. Of these, one of the most important lessons learned through Willamette’s rollercoaster history is that clinics cannot thrive without stable and consistent sources of funding. Thus, law schools should make a concerted effort to devote development efforts focused on raising endowment funds for their clinical law programs. Most law school clinics do work that law school alumni are proud of and can feel good about supporting. These stories should be shared in law school development

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<sup>153</sup> To aid with this ongoing process, Willamette established a permanent clinical law program committee, which is comprised of both clinical and non-clinical faculty members. As discussed in note 112 *supra*, consideration has also been given to hiring an outside consultant with expertise in clinical legal education.

<sup>154</sup> See, e.g., SULLIVAN ET AL., *supra* note 129; ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007).



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efforts and should result in dedicated funding for programs that historically have not been widely endowed. As evidenced by Willamette's turn around, it is often not until stable funding is secured that regular and comprehensive progress can be made in reconstructing a clinic.

