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LAW SCHOOL EXTERNSHIPS: BUILDING ANOTHER BRIDGE OVER TROUBLED WATERS

By Marty Geer, Boyd Externship Director

Introduction

In a recent address to UNLV's Boyd School of Law externship students at the U.S. Immigration Court, Judge Mullins noted, "all of the judges in this court are eager to engage with you, to teach and learn together as you develop into the new generation of lawyers. You are the future of this legal community." The establishment of Nevada's first law school provides significant new opportunities and responsibilities. The mission and vision of the school stresses the creation of a culture of community service and professional responsibility by providing students with structured opportunities to learn the skills, values, roles, and responsibilities of lawyers.

This publication and recent accreditation reports have described and praised the law school's innovative Lawyering Process program and the rapidly developing Thomas & Mack Legal Clinics. A commitment to an excellent externship program in which students are intensely engaged in learning lawyering skills, values, responsibilities, and how the law and legal systems affect communities, families, and individuals, further advances the school's goals. It is another bridge over gaps between legal education, the profession, and the community.

Historical Context

The early American legal training heavily employed the apprenticeship model. The appellate case method seen at the end of the 19th century and generally attributed to Harvard's Christopher Columbus Langdell quickly became the primary pedagogical theme in 20th century legal education. Jerome Frank became its first notable opponent. While recognizing the value of reading appellate court opinions, he noted "[a]s a result of present teaching methods, law students are like future horticulturists who restrict their studies to cut flowers."² He envisioned law schools which would expose students to the case method, but also provide opportunities in which "students would learn to observe the true relation between the contents of upper court opinions and the work of practicing lawyers and courts...[and] the students would be made to see, among other things, the human side of the administration of justice..."³ It would be several more

generations before the profession and legal academy would seriously heed Judge Frank's call.

In 1987, the ABA determined that the profession must thoroughly address ways to "bridge the gap between law schools and the practicing bar."⁴ In 1992, the ABA issued the influential MacCrate Report, which tackled the question, "for what kind of profession are we trying to educate lawyers?"⁵ After reviewing the state of the profession and its dramatic changes in

*I hear and I forget
I see and I remember
I do and I understand.*¹

recent years, the Report recommended a continuing process of professional development throughout a lawyer's career and identified the fundamental lawyering skills and values necessary to the profession:

Skills: Problem Solving; Legal Analysis and Reasoning; Legal Research; Factual Investigation; Communication; Counseling; Negotiation; Litigation and Alternative Dispute-Resolution Procedures; Organization and Management of Legal Work; and Recognizing and Resolving Ethical Dilemmas.

Values: Provision of Competent Representation; Striving to Promote Justice, Fairness and Morality; Striving to Improve the Profession; and Professional Self-Development.⁶

The Externship Program

The law school has made a commitment to providing an externship program consistent with the school's mission and the MacCrate Report's recommendations. After a national search, the school hired a full-time Externship Director in July 2001. Working closely with the legal community, the school has established a year-round program providing opportunities for approximately 100 students each year with the judiciary,

government and public interest agencies, and the state legislature. The offerings include a weekly class component with an emphasis on professional responsibility, legal research and writing and overviews of a variety of court and governmental systems.⁷

The fieldwork commitment is significant, 264 hours for six credits, with structured supervision, evaluation, and weekly writing requirements.⁸ As the school nears the completion of its first year of three semesters of a full complement of offerings, Boyd's externship students have contributed 25,000+ hours of their time to the judiciary, bar and legislature.⁹

The program's goals include: developing an ethic of public service; exploration of practice interests and jobs; instilling a deeper understanding of the judiciary and the role of lawyers; understanding the rules of professional responsibility; enhancing writing and research skills; training in the doctrine of "reflective lawyering"; and development of self-evaluation skills. Placement development has been an enthusiastic collaboration between the law school and the field supervisors. The participating attorneys and judges have embraced the field supervisor's role as a teacher and role model who provides meaningful opportunities and effective feedback.¹⁰

Externship students have a mandatory mid-semester meeting with their field supervisor, which includes having the students draft a memo stating their goals for the remainder of the term. The state and federal judiciary have been strong supporters of the externship program and have consistently contributed their time to our students. One active participant from the beginning, U.S. District Court Judge Philip Pro, recently reviewed his externs' goals memo. He thoughtfully drafted of his goals as an externship supervisor:

Court's Goals For Externs

My goal is to give each extern an honest exposure to the day-to-day workings of the court. To accomplish this, I want each extern to have the opportunity to observe trials, motion practice, to prepare written memoranda and proposed orders regarding motions submitted to the court, to learn the roles of the

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staff of the court, and to gain a perspective regarding the responsibilities of attorneys practicing before the court as well as the responsibilities of the judge. Additionally, where possible I hope to expose externs to their ethical obligations and responsibilities and to contribute to the community in such areas as law-related education, pro bono activities, etc.

I rely on my full-time law clerks for daily supervision of externs and editing of their work, but I also endeavor to keep myself available for daily contact and to answer questions and provide supervision where necessary. I also edit extern work for content and form. Each extern should leave the externship with a practical "demystified" understanding of how our court works and with a greater appreciation for the role and the responsibility of attorneys and judges within our court system. While they will have an opportunity to work on their strengths and weaknesses pertaining to legal research and writing, I do not view the experience as one for "testing" or "grading." Instead, I view the experience as an opportunity to gain a valuable perspective, which should make each extern a better lawyer regardless of the strengths and weaknesses they bring to the profession.

As my daughter might say, "he gets it." Those with a view from both sides of the bridge would agree that Judge Pro's statement is a fitting note to end on. His words reflect the depth of the commitment embraced by Nevada's legal community and sets an appropriate standard for the future of this important program.

The author directs the Boyd School of Law externship program. He came to the school from Syracuse University College of Law, where he was a visiting Associate Professor of Law and Director of the Public Interest Law Firm Clinic. He has engaged in judicial and clinical law teacher training in Russia, India, Brazil and Argentina.

ENDNOTES

1. Ancient Chinese proverb.
2. Jerome Frank, *A Plea for Lawyer-Schools*, 56 YALE L.J. 1303 (1947). Frank also stressed that the "case method" should expose students to the entire case, not only the appellate decision.
3. *Id.* See also Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933).
4. Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, American Bar Association at 7 (1992).
5. *Id.* The Task Force noted Karl Llewellyn's complaint made over 50 years ago, "No faculty, and, I believe, not one percent of instructors, knows what it is they are really trying to educate for."
- Id.* See also Judge Harry T. Edwards, *The Growing Disjunction Between*

Legal Education and the Legal Profession, 91 Mich. L. Rev. 34 (1992) ("I fear that our law schools and law firms are moving in opposite directions. The schools should be training ethical practitioners and producing scholarship that judges, legislators, and practitioners can use. The firms should be ensuring that associates and partners practice law in an ethical manner. But many law schools—especially the so-called "elite" ones—have abandoned their proper place, emphasizing abstract theory at the expense of practical scholarship and pedagogy. Many law firms have abandoned their place, by pursuing profit above all else. While schools are moving toward pure theory, the firms are moving toward pure commerce, and the middle ground—ethical practice—has been deserted by both.") *Id.* Judge Edwards was a practicing attorney and later became a tenured law professor at Harvard and Michigan before his appointment to the D.C. Circuit Court of Appeals.

6. *Id.*

7. In addition to the classes at the school, the Clark County District Attorney's Office holds mandatory weekly classes for externs on a variety of criminal law and practice topics. Training programs are offered on-site in the Clark County Legal Services, Nevada Legal Aid and the Federal Defenders' Offices.

8. The increasing importance of structured externship programs in law schools is also evidenced by the development of textbooks for these offerings. Currently, required readings include *Learning From Practice: A Professional Development Text For Legal Externs* (West 1998) and *Judicial Externships: The Clinic Inside the Courthouse* (Anderson, 2nd ed. 1999).

9. These figures do not include the 20 hours in community education spent by each first year law student in projects administered by the law school and Clark County Legal Services nor the activities of the law school's clinics and student service organizations.

10. Approved judicial externships include the federal courts, including the Ninth Circuit Court of Appeals, U.S. District Court judges, the U.S. Bankruptcy Courts in Las Vegas and Reno, and the U.S. Immigration Court. Nevada state district court judges have supervised externs in Las Vegas, Reno and Carson City. This year, the school approved a Government and Public Interest Law Externship with successful experiences in the Offices of the Clark County District Attorney, U.S. Attorney, Henderson City Attorney, Nevada Legal Services, Clark County Legal Services, Clark County Special Public Defender and the Federal Defender.

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