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## *Clinical Experience and the College Work-Study Program*

*James T. Flaherty\**

**M**ARK TWAIN IS OFTEN QUOTED as the source of the remark that "Everybody talks about the weather, but nobody does anything about it." This quotation is appropriately used for many problems exclusive of the weather. It can also be applied to law school clinical experience and financial aid problems.

As applied to weather and clinical programs, the quotation is not always quite accurate, as another often-quoted saying has been equally applicable: "It is better to light a candle than to curse the darkness."

Without question, many candles have been lighted in the clinical area. It is the purpose of this paper to expose another lighted candle by an explanation of one of the experimental programs at Cleveland-Marshall College of Law of Cleveland State University.

### *The Clinical Problem*

There is no need to exhaustively review the popular literary area on the clinical problem, except to note how it has faced law schools for quite a while, and its somewhat unfortunate metamorphosis.

Legal education was originally clinically oriented. During the first half of this century, a change of emphasis from the clinical (apprenticeship) approach to the pure scholarly approach was fully effected. This designed metamorphosis did not produce the fully expected results, as the necessity for some degree of clinical exposure became more evident as the lack of it increased.

The complete answer to the clinical problem may lie in the adoption of a "fourth year" apprentice relationship, much like the medical training programs.

Finances, technology, precedent, and pride have thus far prevented this possibly ultimate solution from becoming a reality. In the meantime, legal educators must continue to experiment with other solutions.

In current vogue are the Legal Aid programs (sometimes called Legal Services, Poverty Programs, Clinical Programs, etc.), some sponsored by the law schools, but mostly funded by outside sources.

These programs serve a dual purpose: limited clinical experience for the student, with a positive benefit to the socio-economic disadvantaged. They are good programs and should be encouraged. They are, however, limited in clinical benefit, and can have value only as a *contribution* to the clinical problem rather than as a *solution*.

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Cleveland-Marshall participates in this type of program in conjunction with the Cleveland Legal Aid Society, having some student volunteers, others on compensation arrangements, still others on an academic credit program, and finally, of course, the summer projects.

Legal Aid programs cannot serve all students, and must then, as to the clinical factor, remain only a contribution. Other programs and projects must be developed, to suit the needs of other law students, which are adaptable to the available facilities of the law school and the community. This paper then, will serve to explain another experimental contribution which happens to suit the special needs of Cleveland-Marshall, its students, the City of Cleveland and its surrounding cities, towns, and the county.

### *The Financial Aid Problem*

Historically, the legal profession in America was open to rich and poor, as any other occupation or profession. This century has produced a radical change in that American tradition.

The curriculum change to *academic* emphasis at the graduate level, combined with the forced demise of part-time programs, changed the law (as well as medicine) to a profession increasingly confined to the socio-economic advantaged and elite. The current crash programs in force in virtually all law schools, designed solely to recruit those of lesser socio-economic status, bear witness to this unfortunate truth.

Financial aid for the law students, although available in a very limited degree, was never considered seriously enough to result in any major programs. Graduate school aid was generally developed in liberal arts, business and technology. Legal education remained aloof, for as long as the laws of supply and demand (as to students) remained favorable to the law school, there was no internal pressure for reform. The external pressures are of recent origin. Twain's "weather principle" applied quite comfortably to law school financial aid.

Government programs similarly recognized no value in specific support to legal education. Federal programs, for example, are available in science, engineering, medicine, social work, economics, Egyptology, nursing, mental health, and fur seal raising, but NOT in the law. It may be interesting at this point to consider the possible relation between the current status of those funded areas with the unfunded area of the law. Interesting also is the fact that the major single profession represented in the law-making process is that of the lawyer. Sadly, the only major federal attempt in this area, Title XI, PL 90-575, which authorized studies in the legal area, has been relegated to limbo for lack of an appropriation.

Financial aid officials at law schools have contented themselves with student loan programs, especially the NDEA loan program. What has

been generally ignored is that while the Law School NDEA applicant may borrow (e.g. \$6,000) to obtain his legal education, he almost always has a similar outstanding loan from his undergraduate education. Thus, upon graduation, he would have a \$10,000 to \$15,000 LOAN outstanding which must be repaid. This is hardly a SOLUTION to the problem; rather, it is PART of the problem.

### *College Work Study*

The Department of Health, Education and Welfare sponsors a College Work-Study Program (CWSP) which provides federal funding for a collegiate program allowing full-time college students to earn a portion of their total educational expenses through current employment.

The student may work up to 15 hours per week during a regular term, and 40 hours during any regular vacation period. He must be employed in a non-profit company, agency, or association. Federal funds may be used to pay up to 80% of the cost of such (employment) program, virtually all of which is for student wages. This is *not* a co-operative program, since in CWSP, the earning and learning are concurrent.

### *The Cleveland-Marshall Grant Proposal*

Granted that since there is no perfect solution to the problems expressed above, the next best approach is "A" solution.

By a combination of the financial aid problem with the CWSP, a certain amount of financial aid is available to the low income law student. It also means however, on an "action-reaction" approach, that there now are up to 15 hours per week which the student will not have available for legal studies, and this distraction is *per se* a bad thing when considering legal education as a full time "jealous mistress." There may be some validity to this argument, but it may be merely a question of degree.

Studies conducted at the secondary school and college level show little effect on academic standing until outside activities (distractions) exceed 20 hours per week. OEO-funded projects at law schools have utilized students in distractions (non-academic) for similar periods with no ill effect. It may be that the distraction theory was never really properly tested at the law school level, and merely assumed to be true. In any event, this maxim has been sufficiently shaken to allow experimentation.

Look to the alternative: the economically deprived student will find some way to earn additional income (which most do anyway); he will attend a part-time program (unavailable in many areas, or becoming less available); or he will forsake legal education in favor of immediate employment or further degree studies in another area.

Suppose, *pro arguendo*, the law students' employment could be controlled in such a way that it would COMPLEMENT his legal education, then much of the "distraction objection" would be removed, and the employment may in fact prove to be beneficial to his total learning experience.

This is the Cleveland-Marshall theory, whereby the CWSP funds are utilized to finance employment opportunities in LAW RELATED areas. Thus, in addition to providing a partial solution to the student's financial problem, it also gives to him simultaneously the experience of being involved in limited clinical experience.

In November 1968, Cleveland-Marshall applied for CWSP funding of a student employment program which would provide \$180,000 for student salaries. Notice of the approval of the grant was received in March 1969, funding to be effective as of July 1, 1969.

The proposal has a dual thrust as to financial aid: not only to those currently IN school, but as incentive to those NOT in law school, to reconsider the possibility in the event low finances are a deterrent. In effect, the first year will serve as the experiment, with subsequent years performing more and more service to those economically embarrassed.

Students will earn \$3.00 per hour for a maximum of 15 hours per week while school is in session, and 40 hours per week while school is not in session. Thus, they have potential earnings of \$3400 per year. This is not a major sum, but to one in a critical financial situation it could easily be decisive.

### *The Program*

Preparations for a full program in July began immediately. In addition to designating a program director, the problem of staffing was very critical. The two acceptable possibilities were: to hire a full time Lawyer-Professor-Director to handle the program, as is done in OEO projects; or to involve many individuals on a smaller scale. Since a qualified full-time professional would most likely be unavailable, this alternate was not seriously considered. The latter plan was favored, and subsequent events have shown this to have been the wiser of the two alternates. One faculty member was recruited and given responsibility for publicity of the program, not only to enrolled students, but to those for whom the program was designed to reach: those who would otherwise have not considered a legal education solely for financial reasons.

A second faculty member was recruited as the outside contact man. His function, to recruit potential employers and place them under contract, and later to follow the students in their employment to assure a learning experience, was originally considered to be most difficult. It did present some difficulty, but not as much as expected. Instead of a paucity of employers, he had to rapidly cease recruiting employers lest we have

more employment vacancies than could be filled. Within a matter of a few weeks, notices of employment opportunities had inundated the school.

This aspect of the program exceeded all expectations and turned the project from one of seeking law-related employment AT ALL, to seeking the proper type of employment to meet the applicants needs and vocational objectives; in other words, a choice of position.

The third faculty member was recruited to handle student interviewing and job referral, and as the resident tax professor (and CPA) to serve double duty as the expert on the CWSP regulations. This position, originally conceived as relatively routine, has proved to be the nightmare of the entire project, as the plethora of regulations, forms, paperwork, and detail could not possibly have been preconceived by the human mind.

These four faculty members, functioning as a team, began in April, and on July 1, the beginning date of the funded portion of the student employment, the program was launched; certainly not to perfection, but functioning.

During the summer quarter, 27 students were employed under the program, earning an average of \$1315. Some of these were entering students who came to Law School *Solely* because CWSP was a decisive financial factor. During the current year 40 students are under CWSP contracts, and can earn an average of \$1940 for the academic year. Some of these 40 students would not otherwise be attending law school (or would be in the longer evening program). Those participating on an annual basis will earn an average of \$3255 per year.

Since governmental units qualify as employers, and virtually all "non-profit" legal work is performed by such units, it would appear appropriate to have the students almost exclusively employed by these governmental units. The Cleveland-Marshall CWSP students are currently employed by: Municipal Court, City of Bedford; Municipal Court, City of Lakewood; Law Director, Bay Village; Law Director, City of Cleveland; Cuyahoga County Prosecutor; Lake County Prosecutor; Cuyahoga County Common Pleas Court; Cuyahoga County Juvenile Court; Public Defender; State of New Jersey (summer); Internal Revenue Service; and the Defense Supply Agency.

Non-governmental employers include the Cleveland Bar Association, Cleveland Law Library, Lorain County Legal Aid Society, and the Cleveland Legal Aid Society.

Reports from these employers, to date, give every evidence of satisfaction. The participating students have reported enthusiastically in all cases as to both the financial and clinical aspects. The one common complaint to date has been one of concern over the routine. Some positions are quickly learned and further continuance in such positions have lim-

ited educational value. OEO projects involving law students had similar problems.

Discussions of this problem have led to two possible alternatives: abolition of that routine position, or development of rotating employment schedules. No decision has been made as yet, as it is assumed that other problems will arise, and a general revision rather than piecemeal patchwork is preferred.

Financial aspects of the program have presented three problems to date. First, and most important, is the determination of student financial need as a requirement of participation imposed by H.E.W. The published guidelines and experiences of H.E.W. in this area are mostly confined to undergraduate programs, and are of little value in determination of graduate student need criteria. What appear to be acceptable guidelines have been developed locally, but this is only a *local* development. Very little other information is available for financial aid-need at this level.

The only expression of confidence as to its accuracy has been the adoption of these locally-developed criteria by the financial aid officials responsible for graduate students at other universities.

Reimbursement of administrative overhead, as being totally inadequate, is the second problem. There is no question as to its inadequacy; it is designed to be so. The Cleveland-Marshall federal allocation for overhead is (approx.) \$4,500, to cover an estimated program cost of \$10,000 to \$15,000. The law school itself must provide the difference. This is a critical philosophy and policy issue which the law school had to face on its own; whether or not to add an additional cost of \$10,000 to its operational budget for student financial aid overhead.

If the concentration were on the \$10,000, then the answer might have been negative. However, it was eventually considered as a \$10,000 expenditure which will generate \$160,000 in student financial aid, PLUS producing a certain amount of clinical experience, which of course, presented an entirely different and favorable perspective.

The other problem area, payroll and accounting, represents a major portion of the administrative overhead; but once it has been computerized, it may lessen. The problem was greatly reduced when Cleveland-Marshall elected and received permission for a payroll alternate to the federal guidelines—payment on invoice by the employer; a small step with great impact.

### *Conclusions*

This program is not a panacea. It has both advantages and disadvantages. Any law school, considering the advantages of the financial aid and clinical experience factor, must also consider the disadvantage of the cost to the school, and the required dedication of the faculty and staff, whose compensation for services to the program is nominal.

If viewed as a clinical experience device, it would be rated a failure. If viewed in its proper perspective, a financial aid program, it is an unqualified success. Except for a few major university law schools, there is little scholarship aid to needy students unless the applicant is in the upper academic deciles. This program is available to all students in good standing.

If viewed as a distraction from the students' theoretically absolute concentration on the pure academic life, it is a failure, unless it is noted that without such a program, the participants would have no academic life in the law.

There can be no absolutes in judging this program at this time. It is a new and novel program, and as such must be considered as experimental. It requires work on the part of the student, the law school, and the law faculty. Its rewards are confined solely to the student. Each law school must decide for itself. Fortunately, Cleveland-Marshall had all the necessary ingredients, and decided to light another experimental candle.