

THE USE OF “BOOT CAMPS” AND ORIENTATION PERIODS IN EXTERNSHIPS AND CLINICS: LESSONS LEARNED FROM A CRIMINAL PROSECUTION CLINIC

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INTRODUCTION

Clinical faculty and externship supervisors often desire for students to “hit the ground running” in their field placement experiences in order to make maximum use of the limited time available for learning. This article proposes a solution to a chronic dilemma in clinical legal education: how to use a classroom component to prepare students effectively for concurrent work in an externship or clinic.

Pre-semester orientation periods—or what I term “boot camps”—can infuse skills and knowledge into students to

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enable them to start their externship or clinic experience with immediate, practical skills and knowledge. This empowers them to make effective use of their first few weeks in the course. A boot camp can be as simple as a one- or two-hour orientation to the clinic office. It could also be a week-long seminar on skills development and substantive law. Boot camps are, in effect, a way of front-loading instruction in a course. This provides a number of benefits to students and instructors alike. There are, however, costs associated with front-loading portions of a course. On balance, I believe the benefits far exceed the costs in most situations.

In Part I of this article, I discuss my own boot camp experiences, both as a law student and later as a law professor. In Part II, I layout the challenges as I see them in structuring a classroom component for a clinical or externship course. In Part III, I turn to the specifics of front-loaded instruction, discussing different types of boot camps and the advantages and disadvantages of each model. In Part IV, I discuss two areas of possible, future direction for boot camps.

I. MY BOOT CAMP EXPERIENCES

When I took over as director of Texas Tech's Criminal Prosecution Clinic in the Summer of 2003, I decided to implement a boot camp to better prepare my students for their work in our local district attorney's office.¹ My use of a boot camp was born out of: (1) my own experience as a law student at Georgetown; and (2) educational purpose. Indeed, my use of a boot camp in my clinical teaching has evolved even in the past year and will no doubt continue to evolve as I adapt what I have developed to meet new and changing needs.

¹ The Criminal Prosecution Clinic was a one-semester, four-credit elective that was offered to eight students per semester. Students worked as externs at the Lubbock Criminal District Attorney's Office, the Hockley County District Attorney's Office and the Garza County District Attorney's Office. They were required to perform 220 hours of service in their assigned prosecutor's offices, performing a range of

A. As a Student

One of the reasons I chose to attend Georgetown University Law Center was its clinical programs. In the Spring of 1999, I applied for, and was accepted into, the Georgetown Juvenile Justice Clinic, taught by Associate Dean Wallace Mlyniec, Professor Barbara Butterworth and Prettyman Fellow Alison Flaum. The Juvenile Justice Clinic represents alleged juvenile delinquents in Washington, D.C.² One of the requirements of the clinic was that we report to “Boot Camp” five days before classes began.

Boot Camp began modestly, with bagels, coffee and brief introductions from “Wally,” “Barb,” and “Ali,” as we were instructed to call them.³ Within fifteen minutes, however, we

functions including making charging decisions at intake, extending plea offers to defense attorneys, litigating motions and trials and assisting prosecutors with legal research. Students were supervised on a day-to-day basis by assistant district attorneys. I taught the classroom component of the course, observed students in court and worked with the prosecutors to ensure that students were receiving appropriate work.

Ultimately, the faculty of Texas Tech Law School—on my recommendation—discontinued the Criminal Prosecution Clinic after the spring semester of 2004. Our rationale was three-fold: (1) although students were getting a good experience in the Criminal Prosecution Clinic, we felt that an in-house clinic would provide students with a much better and more controlled learning experience; (2) we felt that the Law School owed an obligation to the people of West Texas to produce a cohort of graduates each year who were capable of providing direct representation in criminal cases; and (3) students who were interested in working for prosecutors could still work for the District Attorney's Office through our externship class. Beginning in the fall of 2004, we began the Texas Tech Criminal Justice Clinic under my supervision. The clinic is a year-long, eight-credit course. It, too, has a boot camp.

² Georgetown Law—Juvenile Justice Clinic, at <http://www.law.georgetown.edu/clinics/jjc/index.html> [revised Oct. 1, 2004].

³ For an interesting discussion of the use of first names in clinical instruction, see Jennifer Howard, Learning to “Think Like a Lawyer” Through Experience, 2 C L. Rev. 167, 200 (1995).

had delved into the intricacies of the District of Columbia Family Code. The morning of our first day involved reviewing and synthesizing the hundreds of pages of case law that we had to read during the summer. By the end of the morning, we had a rough idea of how the juvenile justice process worked and what our role was in that system. In the afternoon, we rolled up our sleeves and began our first “forensic exercise”: arguing a hypothetical bond motion. I stood up to begin what I had thought was going to be an articulate, persuasive and—dare I say—brilliant argument on behalf of my hypothetical client. Before I could open my mouth, the “judge,” played by Professor Butterworth, said, “Thank you, counselor, I don't need to hear from you. I have already made up my mind.” I sheepishly sat down, befuddled. What kind of a judge would make up his or her mind after hearing from only one side? “What did he do wrong?” she asked the rest of the class. “He gave up,” she said to the silent mass of sixteen students. “Sometimes you have to elbow your way in and make the judge hear you.” Professor Butterworth taught me two valuable lessons that day: (1) zealous advocates are not always polite; and (2) I had much to learn in clinic about being an effective lawyer and advocate.

The next five days included lectures on juvenile law and procedure, demonstrations, information on fact investigations and more forensic exercises. By the end of that week, we had learned the basic skills we would need to get through the first few weeks in representing our clients. The rest, we were told, would come later in the semester. And it did. We went on to learn how to litigate every aspect of a jury trial as well as how to represent our clients in the important phase of disposition. We contemplated the social causes of crime and confronted our own biases and prejudices in dealing with our largely poor, underprivileged and minority clients.

Make no mistake about it: boot camp was tough. We began everyday at 9 a.m. and ended around 4 or 5 p.m.—a very long day for sixteen third-year law students, most of whom had just completed a prestigious (but not too taxing) summer

as “summer associates” in many of the big Washington, D.C., law firms. Every moment of each day in boot camp was planned-for. Lectures were mixed in with forensic exercises in order to keep us interested and alert.

B. As a Professor

Fast-forward four years. Having completed a federal district court clerkship and served two years as a juvenile delinquency prosecutor in Virginia, I had been hired as the new director of the Criminal Prosecution Clinic at Texas Tech University School of Law in Lubbock, Texas. The Criminal Prosecution Clinic was a four-credit externship/clinic hybrid for eight students.⁴ The clinic ran in the fall and spring, with a new group of students each semester. Students were placed with area prosecutors' offices where they worked on cases under the authority of Texas' student practice rule.⁵ Prosecutors served as the primary, day-to-day supervisors in the respective placements. The faculty director taught the classroom component of the clinic, a two-hour weekly seminar, and oversaw the students' learning experiences in the field. In the previous two years, there had been three separate directors of the clinic. Students and faculty had expressed concern about the rigor of the classroom component of the clinic and the quality of experience students were getting in the field.

In assessing the operation of the clinic at the time, I quickly gathered that part of the difficulty in getting students good experiences in the clinic was the limited time the prosecutors had to work with them. Fourteen weeks is not a lot of time to get students “up to speed” and actually learning about the role of the prosecutor. Further, Texas criminal procedure is complicated and cumbersome. It was too much to ask field

⁴ See supra note Error! Bookmark not defined..

⁵ See TEXAS RULES AND REGULATIONS GOVERNING THE PARTICIPATION OF QUALIFIED LAW STUDENTS AND QUALIFIED UNLICENSED LAW SCHOOL GRADUATES IN THE TRIAL OF CASES (2003).

supervisors to teach students the intricacies of Texas criminal practice in fourteen weeks. Students needed the ability to “hit the ground running” so they could be immediately put to work in their site placement.

I decided to implement a “boot camp,” modeled after my experience at Georgetown. During pre-registration, I told students that they would have to come back to campus three days early for clinic orientation. I assigned a lengthy summer reading list which included materials on Texas criminal procedure and advocacy techniques. To balance for the extra time they were spending in boot camp, I met with them in our seminar component once a week for the first half of the semester and once every two weeks during the second half. This ensured that, in fact, boot camp represented a “front-loading” of the course, instead of an “overloading.”

I began boot camp with an exercise on charging decisions. I gave the students a hypothetical case, complete with real police reports and a criminal history printout. Students had to read over the packet and decide which charges, if any, should be filed. I used the same hypothetical case (a domestic violence report) throughout boot camp; this taught students how the decisions in the charging and investigative stages of a prosecution can impact the later stages of the case. It also forced them to think carefully about the decisions they made at each stage of the case.

I identified as an educational goal giving students enough information so they could start their placements with the ability to accomplish the tasks that they would likely be assigned in their first few weeks. Out of this goal flowed two specific skills that I wanted to teach: witness interviewing and examination, and basic criminal procedure in misdemeanor cases. My goal was not to teach them every aspect of trial advocacy or Texas criminal procedure—there would be plenty of time for that during the fourteen-week semester ahead of us.

II. CHALLENGES IN STRUCTURING A CLASSROOM COMPONENT

Before addressing the question of how a boot camp can be effectively used in a clinic or externship program, the desirability of a seminar component should be addressed. Whether a clinic should have a classroom component is a separate question from how one should be designed. The answer to both questions, however, is the same: It depends. I will start with the assumption that nothing in a law school course should occur “just because.” Rather, every component of a course, from the teaching style to the assessment format, should be born out of educational purpose,⁶ the result of a reasoned thought process and with the purpose of achieving a certain educational outcome. Each component should further one of the educational goals of the course. In this case, whether a clinic should have a contemporaneous seminar and, if so, how it should be structured, are questions that should be answered by asking the question, “What purpose would such a component serve?”⁷ In this section, I will address the challenges and problems associated with creating and structuring a classroom component for a clinic or externship class, paying particular attention to prosecution externships and clinics.

⁶ See GREGORY S. MUNRO, *OUTCOMES ASSESSMENT FOR LAW SCHOOLS* 140-44 (2000). Munro argues that the design of a law school course should flow logically from a law school's mission statement which, in turn, establishes the educational goals of the course. *Id.* at 139-40. The educational goals of a course then help to determine the way in the which the course is taught and how students are assessed. *Id.* at 140.

⁷ In other words, a professor should not start with the assumption that there must be a classroom component and that it must be taught in a certain fashion. Instead, components of a course should be structured around the course's educational goals. Educational tools which do not further the educational mission of a course should be abandoned.

A. The Desirability of Classroom Components

Classroom components have been a subject of debate and discussion in the scholarship on clinics and externships.⁸ The majority of clinics and externships include some form of classroom instruction in addition to field experience.⁹

Classroom components in externship courses exist, in part, because of American Bar Association standards.¹⁰ The

⁸ Compare Erica M. Eisinger, *The Externship Class Requirement: An Idea Whose Time Has Passed*, 10 *CLINICAL L. REV.* 659 (2004) (arguing against externship class requirement in all cases), with Stacy Caplow, *From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic*, 75 *NEB. L. REV.* 872, 886-908 (1996) (discussing academic benefits with a classroom component and possible uses of such class time).

⁹ Professors Seibel and Morton conducted a survey in the early 1990s which found that during the 1992-1993 academic year, 69% of externship programs reported having some classroom component. Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 *CLINICAL L. REV.* 413, 429 (1996). Most programs met for at least one hour a week during the semester. *Id.* at 431. While arguing that they had “no doubt that classroom components can enhance students’ experience in externships,” Seibel and Morton cautioned that this conclusion should not be interpreted as a signal that programs without a classroom component were defective in their design. *Id.* at 429.

In contrast, 89% of clinics in a 1992 study reported that they had a classroom component of some kind. Report of the Committee on the Future of the In-House Legal Clinic, 42 *J. LEGAL EDUC.* 508, 555 (1992). Like Seibel and Morton, the 1992 Report of the Committee on the Future of the In-House Legal Clinic, which reported the results of the survey, cautioned against the adoption of any one model for live-client clinics. *Id.* at 561. Instead, the Committee set forth “minimum common denominators of effective live-client” clinics. *Id.*

¹⁰ The ABA has not treated clinics and externships equally with respect to classroom components. Professor Joy has noted that externship programs are more closely regulated by the ABA than any other program of legal instruction. Peter A. Joy, *Evolution of ABA Standards Relating to Externships: Steps in the Right Direction?*, 10 *CLINICAL L. REV.* 681, 697 (2004).

The ABA’s stricter regulation of externships reflects a historic tendency by

American Bar Association previously “preferred” that externships had a “contemporaneous or tutorial component taught by a faculty member,”¹¹ but did not require such a component unless the externship was offered for six or more academic credits.¹² The rule was amended and currently provides that an externship course shall include the following:

opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn more than six academic credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.

However, the ABA standard does not state what should be taught in a classroom component or tutorial, other than to require “student reflection.”¹⁴ It is important to note that the

faculty and students alike to view classroom components of externships with skepticism. Caplow, *supra* note 8, at 886. Professor Caplow explains this tendency as a natural outgrowth of the number and variety of placements in most programs, the use of administrators and adjuncts to supervise externships, the general preference for in-house clinics and the perception that externships have few personal or professional rewards. *Id.* at 886. In-house clinics continue to be viewed as the “gold standard” and anything short of that standard (i.e., externships) is viewed as second-best. Eisinger, *supra* note 8, at 663 (“Clinical faculty, including externship teachers, have largely viewed the in-house, live-client clinic as the gold standard for clinical education and continue to see externships as a distant and poor substitute, defensible only when a school cannot afford better.”).

¹¹ A.B.A., SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS Std. 305(f)(4) (2003) [hereinafter ABA STANDARDS].

¹² *Id.*

¹³ *Id.* Std. 305(e)(7) (2003).

¹⁴ The interpretations following Standard 305 likewise do not provide guidance in this area. *Id.*

Changes have recently been made to Standard 305. The new standard 305 requires periodic on-site visits (as opposed to every term) and only if the externship awarded four or more credits (down from the present requirement of six). Likewise,

ABA's requirement is not premised on students being fully prepared to act in their placements. Instead, the requirement concerns providing students with opportunities for reflection.¹⁵

On the other hand, there is no comparable ABA standard requiring or even preferring a classroom component for in-house clinics. The AALS-ABA voluntary *Guidelines for Clinical Legal Education*, published in 1980, merely requires faculty to ensure that clinic students are prepared before they act.¹⁶ Such preparation can take the form of course prerequisites, simulations or case-by-case planning and assessment.¹⁷ Nevertheless, classroom components are one of the accepted best practices of clinical legal education.¹⁸

Professor Eisinger has argued that a classroom component should be taught only if it will add to the students' experiences

the requirement for a contemporaneous student reflection component is now imposed on externships that award four or more credits. Memorandum from John A. Sebert, Consultant on Legal Education, to Deans of ABA-Approved Law Schools, University Presidents, Chief Justices of State Supreme Courts, Bar Admission Authorities, Leaders of Organizations Interested in ABA Standards, and Deans of Unapproved Law Schools, available at <http://www.abanet.org/legaled/standards/memor302and305standards.pdf> (Aug. 23, 2004) [hereinafter Sebert Memorandum].

¹⁵ Arguably, reflection requires something worth reflecting about. See Linda F. Smith, *Designing an External Clinical Program: Or As You Sow, So Shall You Reap*, 5 CLINICAL L. REV. 527, 542-44 (1999) (stating that when designing an externship, quality control measures should be implemented to ensure that students are doing agreed-upon work at the field placement). One reason why students may not be getting worthwhile experiences in an agency is because they are going to that agency with insufficient skills and knowledge. For this reason, I argue *infra* in Part II.E. that the ABA standard should be expanded to include a duty of law schools to send externs to agencies with minimal skills.

¹⁶ ASSOCIATION OF AMERICAN LAW SCHOOLS—AMERICAN BAR ASSOCIATION COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION, GUIDELINES FOR CLINICAL LEGAL EDUCATION 26 (1980) (Guideline VIII states: "It is the responsibility of the faculty and professional staff to ensure that each law student is prepared before the student acts.").

¹⁷ *Id.* at 27.

¹⁸ *Id.* at 20.

in their placements.¹⁹ Unnecessary classroom components can have a backfire effect. They can send a message to students and practitioners that the learning in the field is somehow not good enough.²⁰ Eisinger also notes various practical difficulties that can limit the types of subjects which can be effectively taught in an externship class.²¹

Classroom components fit easier into the educational goals of a clinic or externship program where the course is homogenous in nature. Consider, first, a general, all-purpose externship class where students intern at diverse placements such as the U.S. Attorney's Office, a legal aid office, a trial judge's chambers, an appellate judge's chambers, the university's general counsel's office, a poverty law center, a solo practitioner's office and a large firm. It would be difficult to define specific goals for all of the students in such a course because their placements have little in common.²² A class designed with such a diversity of placements would perhaps function best using small group or individual student-faculty meetings. It would be difficult to

¹⁹ Eisinger, *supra* note 8, at 660 ("If the generic externship class can be taught, it should be taught voluntarily, for sound pedagogic reasons, because it genuinely adds value to students' experience in the field.") (internal footnotes omitted).

On balance, I agree with most of Eisinger's argument. A classroom component which exists "just because" does not, by definition, serve an educational purpose. On the other hand, a classroom component which is thoughtfully structured around the educational goals and objectives of a clinic can be valuable to both the students and professor alike. I do not read Professor Eisinger or anyone else as saying that classroom components are never a good idea. Instead, the argument is that a classroom component should exist only if it will serve a useful educational purpose for the course.

²⁰ *Id.* at 661.

²¹ *Id.* at 664-65.

²² For example, some of the students may not be doing a great deal of legal research. A trial court placement may involve primarily docket management and court observation, for example. Some students are working for the government (some state, some federal); some are working for public interest organizations (such as the legal aid office and poverty law center); and some are working for institutions (such as the university's general counsel).

teach skills because each of the placements require significantly different skill sets. Confidentiality prevents in-depth reflection and debriefing, as would be possible in an in-house clinic.²³

If the mission of the course is redefined in a broad fashion, however, a classroom component could become a more viable tool to help the professor achieve the goals of the course. If the purpose of a large externship class is defined as "to instill professionalism," it would be easier to create a classroom component that is meaningful to all students.²⁴ Topics of classroom discussion could include confidentiality, career choices, dealing with difficult supervisors and lawyer discipline.

As the goals and focus of a clinic or externship course become more narrow, the possibilities for classroom instruction increase.²⁵ A program where students work as prosecutors, either in-house or as externs in a district attorney's office, is ideal for some form of a classroom component. The goals for such a program could be defined narrowly: to impart skills in criminal prosecution, to have students gain an appreciation for prosecutorial discretion, and to practice skills in courtroom advocacy. A classroom component flows naturally from one or more of these goals. In other words, a contemporaneous seminar class

²³ "Case rounds" are difficult to do in an externship setting because students may owe a duty of confidentiality to their site placements. Eisinger, *supra* note 8, at 665. The new version of ABA Standard 305, which requires an opportunity for "student reflection," may prove difficult to implement for this reason. ABA STANDARDS Std. 305(e)(7).

²⁴ Discussion and study of professional responsibility would probably fulfill the ABA requirement of "student reflection on their field placement experience." See *id.*

²⁵ The traditional in-house clinic is particularly suited for a classroom component because, typically, it has a narrow substantive focus (e.g., criminal defense, child custody, government benefits, small business development, etc.). Students are often working on similar cases, in part because the professor is able to control and manage their workload. Because the work is similar for all students, the clinic director can use a seminar component to teach specific skills, law and procedures that will be common to all students' experiences. Mary Jo Eyster, *Designing and Teaching the Large Externship Clinic*, 5 CLINICAL L. REV. 347, 350-51 (1999).

would enhance the students' experience in the course or the quality of their work in the field. A professor could teach sessions on particular skills, such as direct examination, or particular aspects of prosecutorial ethics, such as the prosecutor's duty to disclose exculpatory evidence.²⁶ Sessions on skills development could serve as the foundation for advanced classroom work on skills, for clinical reflection on when and how those skills should be used in the field and for self-development by the student.²⁷

B. The Problems with a Contemporaneous Classroom Component and the Benefits of Front-Loaded Instruction

Having articulated why a classroom component can be an important aspect of a prosecution externship or clinic, I will now turn my attention to the problems associated with a *contemporaneous* seminar component. By a "contemporaneous seminar," I envision a class which meets for two hours, once a week for each week of the semester. This is the structure of a traditional seminar, after all, so it would not be unusual for a clinic class to be scheduled in this format as a default.

The problem with a traditional, two-hour weekly seminar is that it assumes that an even rate of delivery is the best way to achieve the educational goals of the course. I would agree with this assumption if clinics and externships were traditional seminars with traditional educational goals. Consider a "traditional" seminar, such as "Death Penalty Law." A two-hour weekly seminar in such a course makes sense because the main goal of such a course is to enhance students' knowledge of the subject: capital litigation. The purpose is not to have students *do* anything. Time is, thus, not of the essence. In fact, classes

²⁶ See *Brady v. Maryland*, 373 U.S. 83 (1963).

²⁷ Norman Fell, *Development of a Criminal Law Clinic: A Blended Approach*, 44 CLEV. ST. L. REV. 275, 283 (1996) ("Learning and training in basic lawyering skills and values is foundational in skill development and readies the student for the next step, the art of application.").

must be spread out in order to give students the time and ability to read cases, absorb class discussions and learn the material in preparation for a final exam or scholarly writing.

My argument in favor of boot camps challenges the traditional assumption that law school courses must be taught using an even rate of delivery. Rather, I believe that the rate and timing of instruction should be determined by the educational values and pedagogical goals of the course. If the course can be more effectively taught in a front-loaded fashion (or back-ended, for that matter), then it should be.

So the question becomes: Can a clinic or externship, particularly one involving criminal prosecution, be more effectively taught by including a front-loaded, "boot camp" component?

We have our students for only a limited amount of time in the clinic. One or two semesters is not a lot of time to teach skills, substantive law, procedure, ethics and professionalism.²⁸ By the time students are taught the basics of lawyering in a clinic, the semester is nearly over.

Coupled with the problem of limited time is the dilemma that everything, it seems, needs to be taught in the first week of a clinic.²⁹ If one is handcuffed to spreading out instruction over the course of fourteen evenly-spaced class sessions, then students' work with cases will likely suffer. For example, a seminar might be structured such that a class on interviewing can only be taught late in the semester. What if students need

²⁸ For schools on a semester or year-long basis, things are somewhat easier. Professor Kanter et al. pointed to the compressed nature of Northeastern's quarter system as an impediment to learning in their domestic violence clinic. Lois H. Kanter et al., *Northeastern's Domestic Violence Institute: The Law School Clinic as an Integral Partner in a Coordinated Community Response to Domestic Violence*, 47 *LOY. L. REV.* 359, 378, 391-92 (2001). Northeastern's unique co-op system means that law school courses are taught on a quarter system. *Id.* at 377. Each quarter is only twelve weeks long. *Id.* The traditional law school semester is fourteen to sixteen weeks long.

²⁹ Eyster, *supra* note 25, at 350 ("I was typically confounded by the perceived need to teach all of the material in the first week so that my students could actually get down to work.").

to know how to interview a witness or client in the first few weeks and throughout the entire semester? This, in turn, means that either the representation of the client will suffer or the supervising attorney has to pick up the slack.³⁰ For the reason that students usually do not start off a clinic with the necessary skills, Professor Hoffman suggested that the supervision of students in a clinic must necessarily start off intensely at the beginning, and gradually ease off until the attorney merely serves as a safety net.³¹

What if, instead, the necessary instruction in basic skills, ethics and law was front-loaded? The benefit to students and clients is obvious. Assuming a sufficient rate of retention from boot camp,³² clinicians or field supervisors can expect a higher level of performance from students once they begin their case-work.³³ Stated conversely, students who do not receive this instruction at the beginning of a course must be handheld and taught on an individual basis—a time-consuming and inefficient means to teach skills or substantive knowledge.³⁴ In an externship setting, it has been my experience that this can lead to frustration and lack of “buy-in” by field supervisors. Finally, when the class eventually does arrive at the point of a semester where a particular skill or doctrine is taught, the professor may encounter a sense of apathy and disinterest by students since,

³⁰ Of course, if the skill is so critical, the professor could move it to the beginning. That may involve pushing back an equally important subject, however.

³¹ See generally Peter Toll Hoffman, *Clinical Course Design and the Supervisory Process*, 1982 ARIZ. ST. L.J. 277.

³² This, I acknowledge, is a potential downside to boot camps. Students may not remember what they learn in boot camp. In the alternative, they may not have the appropriate context to understand what they are being told. For these reasons, it is important that what is taught in a boot camp be considered carefully. See *infra* Part II.

³³ Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 237-38 (1996) (discussing the importance of a minimal orientation “so that [students] will not be totally ignorant when they meet their clients”).

³⁴ Eyster, *supra* note 25 at 350 (discussing the necessity of having to teach so much so early in a class).

after all, they have already “been there and done that.” Simulations and classroom instruction at this point can be viewed as meaningless, irrelevant or uninformed by the “real world,” which students believe they have had sufficient exposure to.³⁵

The best clinical experience results when a student is able to be independent, practicing the exercise of his or her own judgment.³⁶ Much of what externship and clinical professors teach in a classroom component has direct impact and bearing on students' field experience. The skills, substance and perspective that we teach in a companion seminar is often designed to assist students in being better externs or student attorneys. Frontloading instruction, either in the form of a boot camp or by rearranging a semester's schedule such that the class meets more often in the beginning weeks of a class, assists students in becoming more independent. This, in turn, means that they will get better experiences in the field and supervisors can spend more time supervising rather than instructing on basic skills.³⁷

Having a boot camp does not mean that the professor must give up on engaging in clinical reflection with students. For externships, the ABA requires some degree of reflection on the field placement experience.³⁸ By front-loading instruction on skills or substantive law, it frees the professor to use seminar meetings during the semester for reflective dialogue. In this respect, a boot camp merely represents the “rearranging” of a

³⁵ Fell, *supra* note 27 at 296. In contrast, I think students are more likely to be receptive to instruction and simulated exercises in a “boot camp” scenario. They have a distinct incentive to pay attention and take the material seriously; in a few days or weeks, they will hopefully be performing the very same skills they are learning in class.

³⁶ William P. Quigley, Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor, 28 AKRON L. REV. 463, 487 (1995) (“Clinical education is partly based on the premise that the more independence the student can assume in representing people, the better their learning will be.”).

³⁷ Students learn more when they can do more. Quigley, *supra* note 36, at 486 (“Clinic teachers want their students to independently assume as much authority and responsibility for their cases as they can handle.”).

³⁸ ABA STANDARDS Std. 305(e)(7).

seminar component of an externship or clinic. I have not used my boot camp to replace the contemporaneous seminar. Instead, the front-loading of skills training enables me to devote more time during the semester for reflection.³⁹

C. Prerequisites as an Alternative?

Some have argued that it is not the purpose of a seminar or classroom component to teach or train students about everything they will need to know to perform their new roles effectively.⁴⁰ The argument has been advanced that prerequisites can be a more effective way to ensure that students begin their clinical experiences in a competent fashion. This can be a way around the “everything needs to be taught in the first week” problem that Eyster and Schrag have noted.⁴¹ Prerequisites are simply a way to *completely* front-load that portion of a seminar which the instructor deems to be essential to students' performance in their clinic- or field-work.

To the early clinicians funded by the Council on Legal Education for Professional Responsibility (CLEPR),⁴² the classroom component was viewed as an essential mechanism to impart skills which were not being taught elsewhere in the traditional law school curriculum.⁴³ Now that many law schools have courses on interviewing, counseling, alternative dispute resolution⁴⁴ and trial advocacy,⁴⁵ why is it necessary for clinic

³⁹ As already indicated, it has been my practice to give students “credit” for boot camp by canceling classes towards the end of the semester. I do so because otherwise students would spend a disproportionate number of minutes in the classroom per credit hour, as compared to other courses.

⁴⁰ Fell, *supra* note 27, at 295.

⁴¹ Eyster, *supra* note 25, at 350; Schrag, *supra* note 33, at 237.

⁴² This was a funding program from the Ford Foundation for law school clinics in the 1960s. The program was ultimately called the Council on Legal Education for Professional Responsibility (CLEPR). Peter A. Joy, *The Ethics of Law School Clinic Students as Student-Lawyers*, 45 S. TEX. L. REV. 815, 821 n.26 (2004).

⁴³ Fell, *supra* note 27, at 278.

⁴⁴ In building a mediation clinic at California Western, Professors

seminars to be so focused on skills development? If students can learn skills elsewhere in the curriculum, why duplicate efforts in the clinic?⁴⁶

Professor Fell argues that “[t]he time for skills training is before the student enters the clinical phase of his or her practical legal education.”⁴⁷ Other courses are better at teaching skills than small clinic or externship seminars, he says.⁴⁸ He prefers having students enter his clinic ready with the necessary lawyering skills from other courses.⁴⁹ This “frees substantial time for [the] clinical educator to engage more students and to focus on the clinic's unique job, educating students in the `art of lawyering.”⁵⁰ There is something quite appealing in Professor Fell's argument that “[a] marked characteristic of beginning clinical students is their inability to use what they know. ... It's not that they don't know it. They just don't know that they know it.”⁵¹

Einesman and Morton elected to make a course in ADR a prerequisite. Floralyne Einesman & Linda Morton, *Training a New Breed of Lawyer: California Western's Advanced Mediation Program in Juvenile Hall*, 39 CAL. W. L. REV. 53, 58 (2002). Nevertheless, they also included a fifteen-hour, intensive training at the beginning of their clinic semester. *Id.* at 59.

⁴⁵ ABA standards for accreditation require instruction in skills. ABA STANDARDS Std. 302. Standard 302 currently states: “All students in a J.D. program shall receive . . . instruction in . . . skills . . . generally regarded as necessary to effective and responsible participation in the legal profession. . . . A law school shall offer in its J.D. program . . . adequate opportunities to all students for instruction in professional skills.” *Id.* A proposed amendment, pending consideration at press-time by the ABA House of Delegates would provide, “A law school shall require that each student receive substantial instruction in . . . other professional skills generally regarded as necessary for effective and reasonable participation in the legal profession.” Sebert Memorandum, *supra* note 14.

⁴⁶ Fell, *supra* note 27, at 295.

⁴⁷ *Id.* at 296.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 296.

2005]

BOOT CAMPS

1001

The problem with Professor Fell's argument for wider use of prerequisites is not its underlying theory, but its application.⁵² Relying on prerequisites to prepare students for clinical work is problematic from a practical standpoint. First, students may not have had the opportunity to register for such courses, either because they were not offered, they were full, or they too had prerequisites which the student had not yet completed. At Texas Tech, skills courses often have long wait lists and priority for them is given to third-year students. At Georgetown, where I got my J.D., students cannot take both a clinic and the trial practice course.⁵³ Second, students may not know whether they want to take a certain clinic or externship until late in their second year. By then, it will have been too late for them to register for prerequisites. Third, students are sometimes unable—or unwilling—to take more than one or two skills courses before they graduate.⁵⁴ Finally, and quite significantly,

⁵² In theory, his position is quite persuasive: Clinicians and externship supervisors should not have to teach basic skills and substantive law from the ground up. It wastes time, results in poor work product from the student until skills can be taught, and is inefficient. Other courses in the law school, taught in a more traditional manner, can more effectively teach the doctrine and tools of lawyering to more students. In fact, these same reasons support the front-loading of a seminar component, even to the extent of doing a “boot camp” as described in the next section. Thus, to the extent that Fell says students should not begin representing clients unless and until they have the necessary skills, I agree with him.

⁵³ Clinic Enrollment Policies, at <http://www.law.georgetown.edu/clinics/ClinicEnrollmentPolicies.htm> (revised Feb. 9, 2005).

If a student has taken or is currently enrolled in Civil Litigation Practice, Patent Trial Practice, Trial Advocacy and Practice, Trial Practice-Expert Witnesses, or any section of Trial Practice, that student may not also enroll for credit in CALS, Criminal Justice, Domestic Violence, Family Advocacy, Juvenile Justice, or Law Students in Court (or vice versa). If a student has taken or is currently enrolled in the Appellate Practice Seminar, that student cannot also enroll for credit in the Appellate Litigation Clinic (or vice versa).

Id.

⁵⁴ Gary S. Laser, Educating for Professional Competence in the Twenty-

are the problems of retention and consistency. Students in clinic may not remember what they learned in prerequisites because of the temporal distance between the courses. Alternatively, those prerequisites may have been taught inconsistently with the clinician's or externship supervisor's practice.⁵⁵

The notion of a clinic or externship as a “capstone” to a student's legal career is enticing but, in the end, not workable. Professor Bradway, in his early writings on clinical legal education, described clinic as a synthesis of all the work done in law school.⁵⁶ He operated his clinics on the assumption that students had learned—and, presumably, had retained knowledge of—certain basic doctrines and skills.⁵⁷ Prerequisites, however, have little value if students do not take them or remember much from them.⁵⁸

First Century: Educational Reform at Chicago-Kent College of Law, 68 CHI.-KENT L. REV. 243, 277 (1992) (noting that while many law schools offer courses that collectively, but not individually, cover most of the skills and values in the MacCrater Report, few students take more than one or two of these courses).

⁵⁵ Arguably this is not a bad thing. Students who are exposed to a variety of theories and practices in the use of skills are thereafter able to draw upon that variety to come up with their own identity and voice. They learn that there is no “right way” of doing things and that they must use their own independent judgment.

⁵⁶ John S. Bradway, Legal Aid Clinic as a Law School Course, 3 S. CAL. L. REV. 320, 320 (1930) (discussing how students should draw upon the skills and doctrine learned in the first two years and apply it to their work in the clinic).

⁵⁷ John S. Bradway, The Classroom Aspects of Legal Aid Clinic Work, 8 BROOK. L. REV. 373, 374-75 (1939) (explaining that the purpose of clinic was not to teach skills but to fill in the gaps left by other courses, particularly with respect to out-of-court advocacy and negotiation).

⁵⁸ There is, of course, a school-by-school analysis which must be undertaken to determine if prerequisites can be a more effective way of teaching skills. Several schools have experimented with changes to their curricula to organize and improve their skills training. See, e.g., Mercer University School of Law: Woodruff Curriculum, at <http://www.law.mercer.edu/academics/woodruff/index.cfm> (last visited Jan. 14, 2005) (describing Mercer's Woodruff Curriculum, which uses a series of required courses to build advanced skills training on foundational courses in substantive law and skills); Case Law School—Curriculum, at

D. Particular Skills in Prosecution Clinics and Externships

The traditional, once-a-week two-hour seminar is not well-suited for prosecution clinics and externships. In placement-style prosecution externships, the field supervisors are usually full-time practicing assistant district attorneys with busy case-loads. They do not have the time or resources to train students extensively. Case supervision is hard enough for supervisors; teaching skills or substantive knowledge is an additional burden that we should not ask of busy prosecutors. Criminal prosecution, particularly at the misdemeanor or petty violation levels, is a highly technical, procedure-focused and routine practice. Junior prosecutors typically have a volume practice, where they handle many cases over a period of time, many of which contain similar issues of facts and law. Prosecutors have their own lingo to describe the actions on these cases. The quicker students learn the procedure and language of misdemeanor prosecution, the quicker they can learn and practice the more important skills and values such as making charging decisions, deciding on plea offers, and trying a case to verdict. If a professor waits until the end of a semester to explain what a “2255”⁵⁹ is, how to litigate a “PNC,”⁶⁰ or how to interview a police officer, the students will not have obtained the best experience possible.

<http://lawwww.cwru.edu/curriculum/content.asp?id=398> (last visited Jan. 14, 2005) (describing Case Western's new CaseArc curriculum which integrates a variety of skills training throughout the entire J.D. degree).

⁵⁹ See 28 U.S.C. § 2255 (2004) (motion for habeas-style relief from illegal confinement).

⁶⁰ PNC stands for “plea negotiation conference” and is used in Lubbock County, Texas, to force prosecutors and defense attorneys to try to negotiate a plea agreement before a case is set for trial. See LUBBOCK COUNTY, TEX., LOCAL RULES, R. 5.20(G), available at <http://www.co.lubbock.tx.us/DClerk/PDF/LocalRules.pdf> (last visited Jan. 16, 2005).

E. Is There a Duty to Provide Pre-Semester Instruction?

There is an additional reason why a pre-semester boot camp is desirable in a prosecution externship: A law school has a duty to the public and the prosecutor's office to ensure that students are serving the State in a competent and ethical fashion. This is particularly true in an externship setting where the clinic director cedes day-to-day supervision of the students to assistant district attorneys.

I propose that law schools have a duty to ensure that externship students are qualified to undertake basic tasks in that particular office. That is, law firms, agencies and judicial chambers should not be dumping grounds for students who do not have the necessary skills, tact or knowledge to undertake the work of the given placement. Field placements have neither the time, resources nor experience to bring students "up to speed." Of course, the whole point of an externship program is to enable students to learn and grow as future lawyers. It would be unreasonable to require students to enter an externship with the ability to do everything the externship requires perfectly. Nevertheless, field placements have a legitimate right to expect students to enter with a minimum set of skills and knowledge because of the demands that an externship program places on the field supervisors. Before going to a prosecutor's office, students should know how a typical criminal case proceeds through the judicial system, what the role of the prosecutor is (the prosecutor represents the State, not the victim) and how to talk to people (witnesses and court clerks especially). From there, prosecutors can work with students to use these skills and pieces of knowledge in a coherent fashion. A student who enters an externship not knowing what a prosecutor does, not knowing the structure of the court system, and not having basic skills in asking questions of witnesses and attorneys, is likely to be handed a stack of papers to photocopy. It is unreasonable to ask field supervisors to teach students everything about being a lawyer. We have a duty to

2005]

BOOT CAMPS

1005

send them students with a set of minimum, basic skills.

ABA Standard 305(e) only requires externship programs to provide “opportunities for student reflection on their field placement experience.”⁶¹ This narrow requirement omits the possibility of using a classroom seminar to prepare students for the work they will do in the field placement. Better prepared students will get better work.⁶² Better work, in turns, leads to greater educational value and the type of reflection that the ABA seeks. When I was a prosecutor, I supervised externs from nearby law schools. It was my experience then, and later as a professor, that the students who were able to “hit the ground running” in their placements were more likely to argue cases in court, interview witnesses and do the other types of meaningful prosecutorial work that lead to positive educational experiences.

This duty that I write about here exists to benefit the students, the overall program in perpetuity, and the field placement agencies themselves who are, by definition, partners in the externship experience.

⁶¹ ABA STANDARDS Std. 305(e).

⁶² A corollary to this is that better-prepared students are more likely to impress supervisors, get meaningful letters of recommendation, and even further their careers within the field placement itself.

F. Other Benefits of Front-Loaded Instruction

Boot camps enhance students' learning experiences by enabling them to assume independence early in their field work.⁶³ I have found, as both a student and professor, that front-loaded instruction and boot camps can have other, significant benefits. For example, a boot camp can have a camaraderie-building effect on a class, in the same way that the military's boot camps can have a cohesive and team-building effect on a set of recruits. As a student at Georgetown, I found that my fellow clinic students and I "bonded" quickly during boot camp.⁶⁴ In our first week of clinic, we spent about 40 hours together, often in small group exercises.

As a professor, I have noticed that my students have been more comfortable communicating with each other and with me following boot camp. They grow to know each other quite well and feel more at ease in going to each other for help with problems or concerns. I usually include a fun social event at the end of boot camp to "reward" them for completing the experience. In the fall, I had a barbeque. In the spring, I hosted a happy hour at a local restaurant.

⁶³ The term "boot camp" has also begun to catch on in the marketing of continuing legal education seminars. Michigan's Institute of Continuing Legal Education has begun to market seminars for newer attorneys as "boot camps." See Institute of Continuing Legal Education—Anonymous, at http://www.icle.org/scriptcontent/ICLE_index.cfm?section=home (last visited Jan. 15, 2005).

⁶⁴ At the time, we also formed camaraderie in complaining about boot camp due to the intensity of the experience.

2005]

BOOT CAMPS

1007

III. BOOT CAMPS AS A WORKABLE COMPONENT OF A CLINIC OR EXTERNSHIP SEMINAR

If a professor decides that a boot camp might be beneficial to his or her clinic or externship program, there are some initial questions that need to be answered about the type of boot camp which will be offered and how such a program will work.

A. *Types of Boot Camps*

Front-loaded instruction can take various forms, depending on the instructional needs of the particular clinic or externship program. I have identified four different types of boot camps or orientation periods: (1) administrative; (2) substantive; (3) skills; and (4) mixed.

1. *Administrative Model*

One use of a boot camp is to instruct students on the administrative workings of the clinic or externship and to discuss basic "housekeeping" matters. Such an orientation period could be short and would require minimal planning, but could provide students with the minimum, practical knowledge that they would require in order to "hit the ground running." Students could be instructed on a range of topics from requirements of the course to usage of the office equipment.

One of the earliest writers on clinics, Professor Bradway, suggested in a 1930 article that the first order of business for any clinical program is to give students an orientation to the routines of the office, a statement of purpose of the course, and to distribute the office manual.⁶⁵ This session, he said, should occur before students begin any substantive work on cases or

⁶⁵Bradway, *supra* note 56, at 323.

projects.⁶⁶ Professor Grossman similarly argued that “an orientation program prior to fieldwork” can provide students with “how-to” information on office procedures, but can also focus students on understanding their new roles.⁶⁷

Several modern-day clinics use an administrative boot camp to further the instructional goals of their courses. Professor Caplow described how she uses an orientation class in a judicial clerkship clinic to tell students about the course requirements, give them an orientation to the court system, discuss guidelines concerning confidentiality and supervision and to deliver a “pep talk” on the importance of the work they about to do.⁶⁸ The first four weeks of her seminar course are then devoted to skills development.⁶⁹ Thus, while her orientation class gives student a very basic overview of what will be expected of them, the heart of her instruction on skills occurs while students are in the early stages of their externship experience.⁷⁰

Professor Schrag, in his seminal work, *Constructing a Clinic*, devoted a portion of his article to a discussion of orientation programs in clinics.⁷¹ After concluding that an “early orientation may be the best way to get a clinic off to a fast start,” he describes the contents of his orientation program for the Center for Applied Legal Studies at Georgetown.⁷² His orientation program would be best characterized as “administrative.” He has students introduce themselves to each other and then go through a series of ice-breaking exercises.⁷³ Students pair off into partnerships for the purposes of their work in the

⁶⁶ Id.

⁶⁷ George S. Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162, 186 (1974).

⁶⁸ Caplow, *supra* note 8, at 890 n.57.

⁶⁹ Id. at 890-91.

⁷⁰ Id. at 891.

⁷¹ Schrag, *supra* note 33, at 237.

⁷² Id. at 175, 237.

⁷³ Id. at 237.

2005]

BOOT CAMPS

1009

clinic.⁷⁴ He then discusses the typical progress of a case through the asylum process, sprinkling in a brief description of the substantive law that governs their cases.⁷⁵ He then assigns cases to the pairs, distributes course materials, and concludes with a party.⁷⁶

An administrative boot camp appears to be relatively easy to run. Little substantive preparation is required of either the professor or the student. It allows for the completion of a number of "housekeeping" tasks (creation of student partnerships, distribution of materials, discussion of office procedures) to enable the clinic or externship to get started on substantive matters in week one. The downside to an administrative boot camp is that it lacks the ability to train students on the substantive skills or knowledge which they will need to be effective clinical students. They may know how to use the computer to generate forms and where completed paperwork should go, but they will have little idea about what should go in those forms and why. Those discussions must be saved for later in the semester, either in week one or beyond.

Two of my clinical colleagues at Texas Tech use an administrative boot camp in their civil clinic. Students meet for two hours with the clinic director and office manager on the day before classes start. They discuss office procedures and the office manager instructs the student on the use of our clinic's case management software.

⁷⁴ Id.

⁷⁵ Id. at 237-38.

⁷⁶ Id.

2. Substantive Law Model

Another way to use a boot camp is to teach substantive law that students will need early in the course. A boot camp using this model would exceed the limited, practical information that is conveyed in the administrative model. Professor Bergman, who ran UCLA's Consumer Protection Clinic, advocated the use of clinical seminars to teach substantive law, not skills.⁷⁷ In his course, students served as externs in government agencies practicing consumer protection law.⁷⁸ There was a greater need to have students learn the substantive law of consumer protection as opposed to skills, since very little work in that field involves courtroom advocacy.⁷⁹ Professors Wizner and Curtis, who began a legal clinic at Yale in the early 1970s, believed that clinical seminars should teach skills, not substance.⁸⁰ They later discovered that clinic seminars are more effective if substantive law and public policy are taught instead.⁸¹ Without a background in a particular subject matter, they argued, students could not effectively represent clients.⁸² Since their cases went to court so rarely, it was easier and more effective to teach advocacy skills on a one-on-one basis.⁸³ If one accepts the arguments by Professors Bergman, Wizner and Curtis, then it follows that clinics and externships that focus on substantive law in their seminars would likewise benefit from the use of front-loaded instruction. Their argument is simple: Students need to know the laws, regulations and cases which form the foundation of their particular area of work (e.g., Social Security, asylum, criminal defense). As with skills and administrative information, it can be detrimental to the educational mission of a clinic or externship to wait until midway or the end of a se-

⁷⁷ Paul Bergman, *The Consumer Protection Clinical Course at UCLA School of Law*, 29 J. LEGAL EDUC. 352, 358-59 (1978).

⁷⁸ *Id.* at 352.

⁷⁹ *Id.* at 359.

⁸⁰ Stephen Wizner & Dennis Curtis, "Here's What We Do": Some Notes About Clinical Legal Education, 29 CLEV. ST. L. REV. 673, 683 (1980).

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

mester to hold classes on foundational, substantive concepts in the program's area of law.

There are some challenges associated with a seminar component that concentrates on substantive law, even in a boot camp setting. In an externship program, it can be difficult to find an educational "consensus" amongst the various placements.⁸⁴ One student may need instruction on consumer protection law, while others may be involved with criminal law, personal injury or access to government benefits. Finding common ground between these placements can be difficult. However, in a criminal prosecution clinic or externship, this task is easier. Even if students are working in different counties or cities, they all presumably need to know the same substantive law and procedure.⁸⁵

Boredom is a challenge that must be faced in any front-loaded instruction situation.⁸⁶ Nevertheless, I believe this problem is particularly true with boot camps or seminars using a substantive law model just by the nature of the material (which can be dry) and the typical mode of presentation (lecture or Socratic dialogue). If substantive law is to be taught in an accelerated, front-loaded manner, then the instructor should find ways to encourage participation and to make the experience enjoyable for students.

3. Skills Development Model

I see the greatest value in boot camps that work on skills

⁸⁴ Linda F. Smith, *The Judicial Clinic: Theory and Method in a Live Laboratory of Law*, 1993 UTAH L. REV. 429, 451-52 (describing how the myriad placements makes teaching substantive law in a judicial externship program difficult).

⁸⁵ An exception to this rule would be if some students are working for state prosecutors and others are working for federal prosecutors. Even then I think common ground could be found. For example, the law dealing with search and seizure, confessions and evidence tend to be similar between the federal courts and most state systems.

⁸⁶ Schrag, *supra* note 33, at 237-38.

development. Boot camps, because of the long periods of time in which students are available, are particularly suited to provide instruction and practice skills. It can be difficult to teach interviewing techniques in a fifty-minute block during the semester. Such a short time period leaves little room for instruction, practice and critique. What if, instead, the class had several hours to perform the same tasks, before the stresses of the regular semester have begun? Boot camps provide that flexibility by front-loading the instructional time. If done effectively, instruction in skills should not be boring. Skills classes afford greater opportunities for student participation, role playing, small group work and class discussion.⁸⁷

There is a genuine need for skills instruction in clinical and externship courses because students usually get limited exposure to such instruction in other courses in the curriculum. While the curriculum as a whole may provide comprehensive instruction in myriad skills,⁸⁸ the problem, as noted by Professor Laser, is that students rarely take more than one or two of such courses beyond their first-year legal writing course.⁸⁹ Students, therefore, come to clinic with few of the necessary skills to be effective junior attorneys. Many of the skills and values⁹⁰ necessary for success in criminal prosecution can be effectively

⁸⁷ Id. at 238 ("If there is to be an extensive orientation, and particularly if students will perceive it as a burden, clinical supervisors might make special efforts to make it fun. They might make extensive use of some of the tools characteristically associated with clinical legal education.").

⁸⁸ For example, it may provide instruction in trial advocacy, interviewing, counseling, negotiations, mediation, writing and fact investigation.

⁸⁹ Laser, *supra* note 54, at 277. Why do students only take on average one or two skills courses? As noted earlier, skills courses are often low-enrollment and over-subscribed. Third-year students generally get preference for such courses for this reason. I wonder, too, if there is a perception amongst students that skills courses are not "real courses." I have heard faculty members express this view and I would wonder if such points of view have spilled over into the student body.

⁹⁰ See ABA TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 135 et seq. (1992).

learned in a prosecution clinic or externship.⁹¹

There is also a need for skills instruction because semesters are short and students need to be able to “hit the ground running” in their clinic or field placement. This is a real, practical benefit to boot camps that work on skills development. Imparting basic skills *before* fieldwork begins is beneficial to students as well as clients or host agencies. Students feel less lost. They have confidence to know that they can fall back on the techniques they learned before the semester started. Having the ability to begin a new task with confidence means students can start their field education at a higher level. This also has benefits for the field supervisor or clinical instructor. The students' education can begin at a more advanced level. It more effectively uses supervisors' time and leads to additional buy-in by the host agency/placement. This is particularly true in prosecution clinics and externships, where the day-to-day supervisors are often overworked, underpaid civil servants. By making more effective use of their time by sending them students with basic skills, the overall externship or clinical program will be enhanced.

The Battered Woman's Clemency Clinic at the University of Colorado is an example of a clinic with a skills-based boot camp component.⁹² Professors St. Joan and Ehrenreich created a clinic to represent battered women who were convicted of murdering their batterers.⁹³ They used a three-day orientation period to give students basic skills to enable them to begin investigating their cases immediately.⁹⁴ They may have chosen this structure because of their experience that students had

⁹¹ Problem solving, factual investigation, communication, negotiation, litigation procedures, organization and management of legal work, recognizing and resolving ethical dilemmas and promotion of justice are all skills and values that are utilized by prosecutors on a daily basis. Many of the best prosecution clinics and externships attempt to bring many of these skills and values together.

⁹² See Jacqueline St. Joan & Nancy Ehrenreich, Putting Theory into Practice: A Battered Woman's Clemency Clinic, 8 CLINICAL L. REV. 171 (2001).

⁹³ Id. at 172.

⁹⁴ Id. at 192.

2005]

BOOT CAMPS

1015

little experience or background in domestic violence issues. The initial classes were devoted to interviewing skills, client counseling, fact investigation and the psychological dynamics of domestic violence.⁹⁵ Students went on to build on the skills they learned in orientation. Subsequent subjects in the course included drafting clemency petitions, dealing with the media, and identifying ethical issues.⁹⁶

An alternative to a pre-semester boot camp is to frontload the instruction during the first few weeks of the semester and either prohibit students from working on cases during that time or limit their fieldwork to a minimal level. This is the approach described by Professor Duquette, the director of Michigan's Child Advocacy Clinic.⁹⁷ During the first two weeks of his course, he teaches substantive law and procedure, basic skills, and special issues in the representation of children.⁹⁸ These first two weeks are designed to prepare students for clinical practice.⁹⁹ During this time, casework is kept to a minimum.¹⁰⁰ This approach seems ideal for a professor who wishes to do a boot camp but is unable to bring students back to campus before the semester starts. However, this approach would be more effective in a full-year clinic or externship program where the loss of two or three weeks of casework does not have a great impact on student learning or client representation.

⁹⁵ Id. at 192-93.

⁹⁶ Id. at 192.

⁹⁷ Donald N. Duquette, *Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity*, 31 U. MICH. J. L. REFORM 1 (1997) (noting the Child Advocacy Clinic provides assistance to abused and neglected children, parents accused of abuse and area agencies seeking to obtain removal of abused children. The Clinic provides representation to these groups in separate counties to avoid conflicts of interest.).

⁹⁸ Id. at 22.

⁹⁹ Id. While there is some overlap between the classroom component and casework, Professor Duquette points out, "We believe that our close supervision insures that case service does not suffer by doing live cases and the classroom component concurrently." Id.

¹⁰⁰ Id.

Obviously the skills that are taught in a boot camp or even during the semester in the classroom component should have some bearing on the actual work that will be done by students in the field. Professor Bradway, for example, taught “out-of-court” skills such as counseling and negotiation in his civil clinics.¹⁰¹ These were more valuable than “in-court” skills, such as trial advocacy, because students had very few cases that actually went to court, let alone went to trial.¹⁰² This is another example of the importance of assessment. A clinic director should not start a boot camp just for the sake of starting a boot camp. There should be a pedagogical rationale for doing so.¹⁰³

Not all clinical professors and externship supervisors agree that skills should be a focal point for a seminar component, let alone frontloaded in a boot camp. Professor Fell expressed in 1996 that skills could be more effectively taught in other class settings.¹⁰⁴ These skills courses should be made prerequisites for clinics or externship programs, he argues.¹⁰⁵ To be clear, Professor Fell's argument is *not* that skills are unimportant. In fact, his position is just the opposite—skills are valuable and necessary for students working in a field placement.¹⁰⁶ He takes the view, instead, that skills should be taught before a student begins a clinical or externship experience¹⁰⁷ (something I wholeheartedly agree with) through prerequisites (something I view as problematic).¹⁰⁸

How does one handle the problem of students working in different placements? Like the Substantive Law Model, the

¹⁰¹ Bradway, *supra* note 57, at 374.

¹⁰² *Id.*

¹⁰³ Eisinger, *supra* note 8, at 660 (“If the generic externship class can be taught, it should be taught voluntarily, for sound pedagogic reasons, because it genuinely adds value to students' experience in the field.”).

¹⁰⁴ Fell, *supra* note 27, at 296.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* (“The time for skills training is before the student enters the clinical phase of his or her practical legal education.”).

¹⁰⁸ See *supra* Part II.C.

2005]

BOOT CAMPS

1017

Skills Instruction Model requires the professor to find some common ground between the field placements. In prosecution clinics and externships, for example, interviewing witnesses may be a common skill. If most students get to appear in court, then basic instruction on direct and cross examination, arguing motions and courtroom demeanor, might be in order. However, if jury trials are rare in a particular clinic, then the professor might choose to skip voir dire and instead coach students on a one-on-one basis if they in fact get a jury trial during the semester.

4. Mixed Model

The Mixed Model combines elements of the Administrative, Substantive Law and Skills Instruction models. This is the model that I use at Texas Tech and to which I was exposed to as a student at Georgetown. The reason why I created a Mixed Model at Texas Tech was because of the pedagogical needs of the program here. The schedule for my Fall 2003 Boot Camp is reprinted in the Appendix. The skills I identified included knowledge of post-bail procedures, charging decisions, litigating pretrial motions (including direct- and cross-examination skills) and orientation to the courthouse and prosecutor's office. Thus, the material I covered included administrative, substantive law and skills.

B. Administrative and Instructional Challenges

The benefits of a boot camp should be carefully weighed against the institutional and educational challenges to successfully implementing such a teaching mechanism.

1. Putting Students on Notice

Since a boot camp is a departure from the standard and even distribution of class meetings over a semester, students should be put on notice that the course will be front-loaded. This is especially true if students will have to come back to campus before regular classes start. Advanced notice that the course will meet on a front-loaded basis is necessary both for fairness and practical reasons.

How does one deal with the disgruntled student who does not want to cut his vacation short or is otherwise unable or unwilling to attend a previously disclosed boot camp? My answer to students is simple: Boot camp is a mandatory component of my clinic. If a student is unwilling or unable to attend boot camp, then he or she is not eligible to apply for the course. Does this turn some people off from applying to my clinic? Perhaps. Most students, I find, are cautiously intrigued by the idea of a full week of skills training, particularly when I tell them that they will be learning practical things that will help them as they begin their clinical work. In conversations with me after boot camp and after the course, students have generally expressed positive reactions, although many said they were initially terrified of the experience. Given that my clinics have always been oversubscribed, I am generally happy for any opportunity for students to self-select themselves out of the course.¹⁰⁹ I also impose a no-drop policy so students cannot back out of the clinic during or after boot camp, since it would not be possible to add a student from the wait list and have him or her go through boot camp.

¹⁰⁹

The ratio of applicants to slots in my clinic is generally 2:1.

2005]

BOOT CAMPS

1019

2. Approval of the Associate Dean

Although the argument could be made that the decision to front-load a course is one of academic freedom, I think it is wise to seek the approval of the Dean's Office, particularly the Associate Dean for Academic Affairs, before implementing a boot camp. A professor interested in running a boot camp will need the assistance of the Associate Dean in scheduling classroom space and coordinating around other events at the law school.¹¹⁰ Texas Tech's Associate Dean was very accommodating and willing to work with me. For example, he supported my "no-drop policy" and assisted with disseminating the policy to students during registration.

3. Preparation Time

A boot camp means more preparation for both the professor and the students. A new professor, in particular, should give careful consideration to the fact that a front-loaded period of instruction will require a front-loaded period of preparation and teaching. Prior to the start of my first year at Texas Tech, I negotiated with the Dean for a summer stipend to prepare for the start of the clinic in the fall. This enabled me to do all of my preparation for boot camp over the course of several months.

¹¹⁰

At Texas Tech, my summer boot camp coincides with the first-year orientation program, a time when classroom space is at a premium. I begin planning the schedule for boot camp at the same time that the Dean's Office is planning the schedule for first-year orientation. Happily, the Dean's Office has been able to accommodate my space needs during boot camp.

4. Time Away from Cases

An additional consideration for in-house clinics is the time commitment for a boot camp. A week-long boot camp will mean an entire week when the clinic will, in effect, be closed for business. Unless there are multiple clinical faculty who can cover cases for one another, the clinic will have to arrange not to have court hearings, client appointments or major deadlines during the week of boot camp.

5. Student Boredom

A week-long boot camp can be boring for students unless the professor takes steps to make the experience interesting. Professor Schrag suggested that an element of fun might be introduced to reduce the likelihood of boredom.¹¹¹ "If there is to be an extensive orientation," he wrote, "and particularly if students will perceive it as a burden, clinical supervisors might make special efforts to make it fun."¹¹² He suggested using skits, videos, simulated exercises and small group discussions to liven up the students.¹¹³

In my boot camp, I use a mix of lectures, Socratic dialogue, role playing exercises, field trips and videos to keep students interested. I never lecture or use the Socratic method for more than an hour. I try to do at least one role-playing or practice exercise in the morning and one in the afternoon. Ample breaks and refreshments are provided. I also schedule a morning where we go downtown to the courthouse, meet the judges and the ADAs they will be working with, and visit the Clerk's office and jail.

¹¹¹ Schrag, *supra* note 33, at 237.

¹¹² *Id.*

¹¹³ *Id.*

6. *Professor Burnout*

A corollary to the problem of student boredom is the problem of burnout for the professor. A week, or even a few days, is a long period of time to be teaching all day. By the end of each day of boot camp, I am generally exhausted. Mixing up the schedule to include short periods of lecture followed by short periods of student activity (such as role playing) helps to recharge my energy stores. In clinics or externship programs with multiple faculty members or staff, professors should consider teaming up or alternating different components of boot camp. I suggest below that where there are multiple clinics at a law school, each with only one faculty member, the professors should consider joining forces to create a program-wide boot camp in which faculty could each teach a small portion of the front-loaded curriculum.¹¹⁴

In an externship, a possible solution to the problem of professor burnout is to enlist the aid of field supervisors to teach part of boot camp. Field supervisors are particularly well-suited to teach office policies and local court procedure, and to evaluate skills exercises. Involvement of field supervisors has a number of distinct advantages. First, it frees the professor from having to teach all of boot camp. Second, it involves field supervisors early in the program. They will have a better idea of students' capabilities which, in turn, will lead to more carefully crafted assignments and feedback. Additionally, there is greater chance for buy-in by the field supervisors.

114

See *infra* Part IV.

IV. FUTURE DIRECTIONS

Although I could find no comprehensive study on the use of boot camps in clinical legal education, anecdotal evidence suggests that a fair number of clinics and externship programs are front-loading instruction to meet the pedagogical needs of their courses.¹¹⁵ Each semester, I re-examine the uses and purposes of the boot camp in my clinical course, I have begun to think about ways in which boot camps can be expanded, improved and further refined.

If a law school has several clinics, the directors should consider doing a collaborative boot camp to deal with the issues of burnout and exhaustion. For clinics that use a mix of lectures and practical exercises, it might be workable to have one professor teach a lecture on a particular subject (such as witness interviewing) and then have students break out into smaller groups, supervised by other faculty, to practice skills in forensic exercises. This would work if the material being taught has crossover potential amongst the various clinics. The entire clinical program at a law school may not be able to collaborate for the entire portion of a boot camp, but perhaps a few commonalities could be found to do some joint teaching.

Another possibility to consider is the frontloading of the entire seminar component of a clinic or externship course, not just a portion. Students would enroll in a particular course during the semester before they entered the field as clinical students or externs. This alleviates the "perceived need to teach all of the material in the first week so that ... students could actually get down to work."¹¹⁶ This is the format used by the University of Georgia's Criminal Prosecution Clinic:

¹¹⁵ This conclusion was drawn from an informal survey of the LAWCLINIC-listserv as well as participants in the Works-in-Progress Concurrent Session at the AALS Conference on Clinical Education in San Diego, California, in May 2004.

¹¹⁶ Eyster, *supra* note 25, at 350.

2005]

BOOT CAMPS

1023

The clinic is a three semester program. During their first semester, students learn criminal law and procedure, trial skills, and evidence in a mock setting. In their third year, students are certified as Student District Attorneys. They prepare and try both misdemeanor and felony cases. They appear before grand jury, conduct preliminary and motion hearings, and prepare all necessary paperwork including appeals.¹¹⁷

There are some downsides to this approach. Students must commit themselves early in their law school careers to participating in this particular clinic/externship. There is also the problem of retention of learned material through the summer and into the fall and spring semesters of the third year.

CONCLUSION

When implemented as part of a comprehensive and well thought out educational program, boot camps or front-loaded classes can serve a valuable function in clinics and externships. Prosecution programs can especially benefit because of the need for immediate immersion in basic advocacy skills.

¹¹⁷ University of Georgia School of Law, Student Handbook, at <http://www.law.uga.edu/facstaffstu/students/handbook/course.html> (last modified June 3, 2004).

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1024

MISSISSIPPI LAW JOURNAL

[Vol. 74

APPENDIX
TEXAS TECH CRIMINAL PROSECUTION
CLINIC BOOT CAMP SCHEDULE

Wednesday, August 20, 2003

9:00-9:15 Introductions

9:15-10:15 Theory and Practical Exercise: Case Analysis and Strategy

10:15-10:30 Break

10:30-10:45 Theory: Sentencing Arguments

10:45-11:45 Practical Exercise: Sentencing Hearings

11:45-12:45 Lunch Break

12:45-1:30 Theory: Witness Interviews and Direct Examinations

1:30-1:40 Break

1:40-3:00 Practical Exercise: Interviews

Thursday, August 21, 2003

9:00-10:30 Practical Exercise: Direct Examinations

10:30-10:45 Break

10:45-11:30 Theory: Cross Examinations

11:30-12:30 Lunch Break (and preparation for cross examination exercise)

12:30-2:00 Practical Exercise: Cross Examinations

Friday, August 22, 2003

9:00-12:00 (Meet at DA Office)

Court Tour

DA Office Tour

Meet Judges

Misdemeanor Procedure

Paperwork Flow

12:00-1:15 Lunch Break

1:15-1:45 (Meet at Law School)

Theory: Case Disposition

1:45-2:15 Practical Exercise: Case Disposition

2:15-2:30 Clinic Procedures

6:00- ? BBQ/party at Prof. Cunningham's house

2005]

BOOT CAMPS

1025