Experience as Text: The History of Externship Pedagogy at the Washington College of Law

Peter Jaszi, American University Washington College of Law
Ann Shalleck
Marlana Valdez
Susan D. Carle

Available at: https://works.bepress.com/susan_carle/28/
EXPERIENCE AS TEXT: THE HISTORY OF EXTERNSHIP PEDAGOGY AT THE WASHINGTON COLLEGE OF LAW, AMERICAN UNIVERSITY

Peter Jaszi  
Ann Shalleck  
Marlana Valdez  
Susan Carle*

INTRODUCTION

In this article we analyze the historical development of a supervised externship program at American University, Washington College of Law ("WCL"). We trace the origins of our particular pedagogic goals and program design to the history and culture of our institution, in the hopes that this form of self-reflection will be useful to others making their own choices about these matters. Through

* Peter Jaszi is a Professor of Law at American University, Washington College of Law ("WCL"). Ann Shalleck is a Professor of Law and Director of the Clinical Program and the Women and the Law Program. Marlana Valdez is Director of the Externship Program. Susan Carle is an Assistant Professor of Law and Faculty Coordinator of the Externship Program. They would like to thank Robert Dinerstein and David Chavkin for comments on earlier drafts, and Karolyn Hicks and Lisa Bleich for expert research assistance.

1 We thus hope to make a contribution to the growing literature about externship pedagogy by drawing lessons from our own experiences. Although an important project would be tracing the overall development of externship pedagogy, we do not attempt in this article to put our own experience into this context. We do, however, draw at least implicitly from some of the excellent prior work in this area. See, e.g., Kate E. Bloch, Subjunctive Lawyering and Other Clinical Extern Paradigms, 3 CLIN. L. REV. 259 (1997); 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 (1996); Robert F. Seibel & Linda H. Morton, Field Placement Programs: Practices, Problems and Possibilities, 2 CLIN. L. REV. 413 (1996); Linda Morton, Creating a Classroom Component for Field Placement Programs: Enhancing Clinical Goals with Feminist Pedagogy, 45 ME. L. REV. 19 (1993); Linda Smith, The Judicial Clinic: Theory and Method in a Live Laboratory of Law, 1993 UTAH L. REV. 429.

Earlier foundational scholarship includes Robert Condlin, "Tastes Great, Less Filling": The Law School Clinic and Political Critique, 35 J. LEGAL EDUC. 45 (1986) (advocating for an "outside cooperative office" that would allow students to engage in practice and allow supervising law school instructors to engage in critique, questioning not only the outside attorney's choices but also the structure of the legal system that encourages those choices); Kenny Hegland, Condlin's Critique of Conventional Clinics: The Case of the Missing Case, 36 J. LEGAL EDUC. 427 (1986) (arguing that outside placements have certain benefits, but being better situated to perform critique is not one of them); Henry Rose, Legal Externships: Can They Be Valuable Clinical Experiences for Law Students?, 12 NOVA L. REV. 95 (1987) (arguing that externship placements can offer a lower-cost alternative to in-house
this self-study we have realized that — contrary to the way clinical literature often conceives of program development — we did not start by articulating a complete set of goals, around which we then built a program. Instead, goal formation and program development occurred together in a far more complex, interactive process. The steps we took in building a program led to the identification of our pedagogical goals, just as articulating those goals pointed the way towards next steps in program design.

We describe below the externship program that emerged from this process, highlighting pedagogical choices that may be of interest to others. In brief summary, some of the salient features of our program are as follows. We conceive of externship seminars, taught for full teaching credit by a broad cross-section of permanent, full-time faculty at the Washington College of Law, as the centerpiece of our program. It is these seminar experiences, rather than students’ work in the field, that provide the forum in which learning takes place. Students bring their field experiences back to the law school as the “text” for critical analysis. In this respect, our program model may have similarities to those of some other schools. It differs, however, from the “ecological” learning model about which Brook Baker and others at Northeastern University have written extensively, which emphasizes the placement as the primary site of learning.

Our program reflects this difference in various ways. We do not, for example, view students’ field supervisors as the “faculty” who guide students in their educational experience. Rather, the field supervisors are an integral component of the practice setting that is the object of study. We rely on our own faculty to construct an educational experience, based on a combination of classroom instruction

clinics, available to more students).  

Most of these faculty members are sympathetic to but not formally a part of our clinical programs and our externship program thus provides a forum for cross-fertilization between our clinical and non-clinical programs, as we discuss in greater detail below. We also draw on a few adjunct faculty with special expertise in certain practice areas, such as international human rights law and lawyering for the government and public interest.


In this respect, our model differs from those programs that place emphasis on training field supervisors. See, e.g., Liz Ryan Cole, Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers, 19 N.M. L. Rev. 163 (1989); Janet Motley, Self-Directed Learning and the Out-of-House Placement, 19 N.M. L. Rev. 211, 214 (1989).
and regular supervision meetings.

Nor do we include the teaching of lawyering skills as a goal of our externship program.\textsuperscript{5} Instead, the focus is on providing students with tools for thinking critically about their work as lawyers in the institutions in which they will operate. Our pedagogical goals call for students to observe the realities they are likely to face in practice, to develop some critical perspective on the conditions they find, and to begin to develop strategies for realizing their goals and values within these settings. In this respect, our externship program provides a complement to, but not a substitute for, the focus of our in-house clinics on the development of reflective practice skills.

Our program design is tied to these pedagogical choices. The externship seminars cover a variety of topics that arise in clinical teaching but may not be fully explored because of competing teaching priorities related to client representation. Externship seminars may, for example, compare the nature of law practice in various settings, explore theories of bureaucracy, examine the dynamics and politics of the workplace, use studies of the history and sociology of the legal profession to enrich students’ perspectives on their placements, and confront legal ethics in theory and practice. In addition, externship seminars allow us to make students’ immediate concerns about the transition from school to practice the object of serious academic inquiry. The goals students have for their careers and the ways they approach the planning of their work lives are addressed not just as individual choices, but also as examples of the way a profession shapes and is shaped by its members. Students are encouraged to become insightful about the values they bring to their work, the values they encounter in the legal workplace, the workplace communication of values through supervision and training, and the process of change that occurs as they face value conflicts.

Our students select their own placements within the not-for-profit sector, in any government agency (local, state or federal), nonprofit organization, or \textit{pro bono} project within a law firm, provided that the organization agrees to assign the student projects or parts of projects comparable to those of a beginning lawyer in the organization. Within these broad limits, we do not monitor the nature of the placement or attempt to ensure that specific legal skills training occurs. Similarly, we do not attempt to ensure that students are exposed to ideal practice conditions or artificial situations engineered through our intervention. Instead, we try to assist students in finding field placements that will provide rich material for critical reflection and

---

\textsuperscript{5} Cf. Caplow, \textit{supra} note 1, at 873-86 (arguing that judicial externships can teach lawyering skills enumerated in MacCrate report).
opportunities for professional growth, and then to help them identify their goals for the externship experience and negotiate with their field supervisor to attain those goals.

In Part I of this article, we outline the institutional history that led to the development of the externship pedagogy outlined above. In Part II, we offer a description of our program's organization. In Part III, we present some of our thoughts on the directions in which we would like to lead our program's future development. Finally, we offer some reflections on our experience.

I. GENESIS OF THE WASHINGTON COLLEGE OF LAW'S EXTERNSHIP PROGRAM


Several aspects of the recent history of the Washington College of Law converged to produce our externship program: the effort to integrate pro bono work into the curriculum; the collective sense of dissatisfaction with a system of individually supervised externship placements; and the development of a programmatic focus within the law school. In addition, our program was, to a certain extent, a response to external pressure. We tell the particular story of our program's development in an effort to construct an account of the factors that gave rise to our current externship pedagogy. We do not seek here to create a broader narrative or to place our own experience in the context of developments throughout legal education. Nor can we identify how typical or idiosyncratic are our own roots. Rather, we wish only to identify the elements that were formative in our own institutional history. We expect that the telling of multiple stories, including our own, will ultimately lead us to a better understanding of how different factors converged to create externships as a distinct way of learning about the law and legal institutions.

One historical line relates to the law school's public service functions, in which our colleague Burt Wechsler, a professor of Constitutional Law, was a crucial figure. Almost from the moment of his arrival in 1978, Burt advocated strongly that the school should be doing more to encourage and support pro bono activities. In the mid-1980's, Burt proposed and our faculty adopted a motion supporting the appointment of a public interest coordinator. Some interpreted the resolution as calling for the allocation of more institutional resources to better organize our then somewhat incoherent externship program, through which much student pro bono activity occurred. Others feared that assigning the development of an externship program to a public service coordinator would produce neither a high
quality externship program nor a broad-based public service component in the law school. Temporary paralysis resulted, and the position was never created. Discussions about the resolution, however, provided an early context for identifying the issues involved in building our externship program.

Several years later, in 1991, the strong efforts of some faculty to promote pro bono led to then-Dean Elliott Milstein’s forming an ad hoc faculty-student Pro Bono Committee chaired by Professor Peter Jaszi, a long-time WCL faculty member. This event coincided with a movement in the profession generally toward the idea of mandatory pro bono requirements. After an elaborate process, involving school-wide meetings and other solicitations of opinion from the WCL community, the Committee issued a report recommending a mandatory pro bono requirement. That proposal was put to a student referendum. During a hard fought and emotional process, three positions emerged. One group supported the requirement. A second was not opposed to the idea of a pro bono requirement but contested the proposal’s definition of pro bono service cost in terms of addressing the legal service needs of underserved individuals and groups. Finally, a third and very vocal group was opposed to any requirement as a burden on student autonomy. When the proposal was narrowly defeated, we were left with the question of what to do with the considerable positive sentiment concerning pro bono work that the discussion had generated.

Shortly after the referendum the Dean announced that, although the students had spoken on the question of a pro bono graduation requirement, the school was strongly committed to pro bono and would undertake a variety of initiatives to promote service. This re-dedication to goals of public service, now separated from the issue of the role of a public service coordinator, eventually contributed to the institutional impetus for developing a meaningful Supervised Externship Program.

A second historical line developed from emerging faculty dissatisfaction with our past practices regarding externships. Since at least the early 1970’s, students at WCL had done externships for academic credit. For most of that time, externships were offered on what we now call the “individual tutorial” model. Faculty supervision, which tended to be both informal and pro forma, had two basic variants. In one, the student-initiated version, an individual student obtained a placement and then canvassed faculty members until he or she found a teacher willing (at a minimum) to sign the paperwork required at the beginning and end of the semester to obtain academic credit. The second version involved faculty-initiated placements. Some faculty
members had relationships with particular offices, and they recruited students more or less systematically.

In addition to using the individual tutorial model, WCL students also found externship placements through our Federal Regulatory Process program ("FRP"). In this innovative summer program, founded in 1979, students worked in federal agency placements during the day and attended a series of related evening classes. Those classes featured representatives from various federal agencies, including those where students were working, talking about the functions of their office. As one of WCL's first serious efforts to define a new curricular offering relating to the special conditions of law practice in the District of Columbia, FRP was an important step in the evolution of our externship programs. It systematically attempted to develop quality placements where the students' observations and actions would provide an integral part of their learning about the ways the federal regulatory process works. Also, FRP's emphasis on "seeing and doing" ultimately would inspire us to think about where the learning value in an externship placement might reside. Significantly, FRP represented WCL's first attempt at linking students' field experiences to a classroom course.

A third line of development contributing to the design of our current externship program was an increased emphasis on program development in the institutional life of WCL. The FRP was only one instance of that change. Another was the increasing profile of the WCL clinics, whose faculty had, by the early 1990's, been fully integrated into the law school as regular tenure-track faculty members. In addition, the successful development of a Women and the Law program and the creation of a significant LL.M. program in International Legal Studies helped shape the life of the school. As these programs grew and flourished, their success provided an impetus for efforts to develop a new, challenging and creative externship program.

An ABA reaccreditation team's site evaluation of our school in 1986-87 constituted a fourth line in the history of our externship pro-

---

6 Andy Popper, a professor of Torts and Administrative Law, developed and taught the program. As a respected full-time faculty member, he gave the FRP program status within the school. From this example, we learned about the importance that vesting responsibility for an externship program in a full-time faculty member may have for its institutional legitimacy.

7 The development of the International Legal Studies program contributed to the success of our externship program in a second way. With our current Dean, Claudio Grossman, as its then-Director, the International Legal Studies program developed its own externship placement component. This program fell completely outside the domain of the J.D. program, but its existence contributed to an atmosphere within WCL strongly favoring externships and contributed to our current Dean's belief in the importance of externships and support for our program.
gram. The visitors' report rightly criticized the incoherence of our existing program design and the inadequacy of supervision and record-keeping in our “individual tutorial” externships. These criticisms sounded a “wake-up call”; in the early 1990’s, with the next ABA inspection visit looming, they were helpful in obtaining the resources to improve a substandard program — and, ultimately, to devise a new model for externships.

Before we arrived at that model, however, we experimented with improving our program by looking to the then-prevailing externship model which assumed that the learning value of externships lay outside the school, and viewed the field supervisor as the surrogate teacher for purposes of delivering that learning value. We tried to get field supervisors to take their responsibilities more seriously. In particular, then-Associate Dean Andy Popper oversaw a major overhaul of the paperwork (including so-called “externship contracts”) used in our “individual tutorial” placements. In addition, he worked to bring the field supervisors closer to the academic life of the law school by sponsoring a series of events designed to inspire a sense of shared enterprise. These attempts were consistent with some of the approaches contained in the ABA’s new proposed standards for externship programs: encouraging academic oversight of the activities of field supervisors and promoting their fuller integration into the teaching program.

As these various lines of historical development converged, the experiences of the faculty in the clinical program generated important questions about the direction of the externship program. Initially, clinicians voiced some doubts about the desirability of developing externships as an important element of experiential learning at WCL. The clinic had not yet achieved the broad acceptance as a strong, positive part of our institutional profile that it now enjoys. The struggles over full integration of clinical faculty had just been won, and some hostility toward the clinic lingered, as well as unease about its future role within the institution. Many clinicians felt that devoting significant resources to improving externship programming might create a risk that future opponents of the clinic would invoke externships as a cost-effective alternative to creating stronger, better, larger in-house clinics.  

---

8 This risk was much stronger then than now because the availability of funding for clinical education through Part E of Title IX of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1134n-1134p, meant that many schools supported their in-house clinics through “soft money” — i.e. grant funds that were not part of permanent program budgets. Although most of WCL’s clinics were supported by “hard money,” the school continued to receive some funding through Title IX. Thus, clinicians sensed vulnerability as they anticipated battles about the institutionalization of “soft money” clinics when Title
The clinicians' concerns had philosophical and pedagogical, as well as institutional, dimensions. In general, they contended (as all of us associated with the WCL externship program came to agree) that externship placements cannot substitute for clinical experiences where providing pedagogically sound training in the practice and theory of client representation is concerned. Even at their best, externships necessarily lack some of the essential components found in in-house clinics: they rarely give students primary case responsibility; do not provide the intensive, supportive, yet appropriately distanced supervision of case development and client relations that in-house clinics afford; and they do not incorporate the mix of supervision, case rounds and classroom instruction that encourages in-house clinic students to learn client representation skills while acquiring a critical perspective on lawyering and its relation to doctrine, legal institutions, and clients' lives. As they were commonly structured at that time, externships seemed to amount to clinics without clients, without supervision, and without an intellectual framework. Why, our clinicians wondered, should we promote a model of experiential learning that fell so far short of the ideal? This strong and well-articulated critique provided a useful challenge. It required those designing a new externship program for WCL to articulate how such a program would achieve goals that lay beyond the scope of our clinics' objectives, and to identify points of similarity and difference between our clinical teaching methods and those appropriate to externship pedagogy.

This challenge helped us channel the momentum for change that had resulted from the convergence of internal pressure to address the issue of pro bono work and the ABA pressure to take action on externships. It was clear that any initiative would require a faculty "sponsor" to avoid the risk of becoming a marginalized program with few resources. Early in 1992, with the support and encouragement of then-Dean Elliott Milstein, Peter Jaszi9 began to develop a model of an externship course that addressed the critiques of clinicians. The conceptual challenge was how to use the clinicians' critique of externships funds ran out.

9 Peter was the former chair of the Pro Bono Task Force. Not a clinician but a copyright lawyer with an interest in critical theory, Peter was a supporter of an activist, service orientation for the law school. He had been the beneficiary of practical education about the theory and pedagogy of clinical education while serving on the Rank and Tenure Committee in the immediate aftermath of the "merger" that brought WCL's clinicians onto the regular tenure track. Peter thus had not only read the clinical scholarship WCL's clinicians were producing, but also had observed clinical teachers' classes and supervision videotapes. The opportunities to review the work of some of WCL's clinicians and to discuss the premises of clinical teaching with others contributed greatly to Peter's thinking about how to design an externship course that could provide a template for an externship program with its own pedagogical identity.
ships to help identify a new approach to externship teaching. This project presented a paradox: while seeking to avoid presenting externships as a poor imitation of clinics, we also wanted to derive as much guidance as possible from clinical education. Our question to ourselves was, "What can we learn from the successes (and limitations) of in-house clinics that will permit us to develop a complementary, but non-duplicative model of externship education?"

We recognized that WCL's existing externship program could not adopt our clinics' model of supervision. As a practical matter, without the infusion of significant resources focused on training, supervising, and, perhaps paying the field supervisors, harried lawyers using unpaid assistants could not be transformed into supervisors who resembled clinical teachers. We also recognized that most externship students would not be placed in situations where they would have primary responsibility for direct service delivery to clients — as is the case in all our clinics. But a central theme of our clinic pedagogy — providing students with structures for reflecting about work experiences — seemed to be one that an externship program could adopt and modify for its own purposes.

The question became, "Reflection about what?" In the clinic, students were being encouraged to reflect about the nature of law practice, themselves as lawyers, the lawyer-client relationship, the lives of their clients, and the relationships among lawyering, client experience, law and legal institutions. We recognized, however, that this body of interrelated material could not be the primary basis for student reflection in the externship setting because students generally would lack the crucial experience of being the primary legal service provider for clients.

We realized, however, that some of the secondary and tertiary foci of reflection in the clinic could begin to provide a coherent educational program for externships. While students in the clinic learn about lawyering and themselves as lawyers, they also develop a sophisticated critical understanding of the subsystems in which they were practicing. They were not only learning how to make the system work to the advantage of a client, but also developing a more critical understanding of why the legal process works as it does, who is advantaged and who is disadvantaged by the operation of the legal system, how one might imagine it working differently, and what steps one might take to bring about change. Therefore, we identified questions concerning legal systems (including subsystems), and the prospect for

---

10 A number of clinical faculty were involved in the discussions with Peter, including Bob Dinerstein, Elliott Milstein, and Ann Shalleck. Ann became Peter’s principal collaborator.
change in those systems, as important issues that might appropriately be transplanted into the externship setting. In the clinical setting, these questions were addressed primarily as part of the teaching of lawyering. By placing students in a real practice setting, yet removing the primary responsibility for client welfare and the need to master the skills necessary for achieving results for a client, an externship program could permit students to focus upon reflection about the legal system, while being participant-observers within that system.

In exploring the relationship between externships and clinic, we realized that an in-house clinic enables students to reflect upon how to engage in good practice and make sound decisions in a relatively insulated world, isolated from many of the pressures that working lawyers generally feel, including financial pressures, caseload pressures, and political pressures. In certain respects, however, this insulation may be a program defect. At the least, it requires a trade-off of verisimilitude for good teaching conditions that foster high standards of practice. In teaching students about the feel of being a lawyer operating within competing real world pressures, an externship might provide a better experience than an in-house clinic. An appropriately designed externship program could expose students to the contradictions, pressures and frustrations of practice, without having to hold these experiences out as models of good practice.

Those of us who had supervised students in externships under our old model understood that the ability of WCL faculty to affect what students do in a practice setting is quite minimal. In an externship setting, students are enmeshed in a complex system with respect to which the faculty supervisor is an outsider. We began to see the relationship between what can be taught in a clinic and an externship program as involving the separation of two aspects of teaching students how to be good lawyers. For example, while a clinic effectively teaches students the multiple aspects of conceptualizing, analyzing and writing an effective motion, an externship enables the students to develop a critical awareness of why there are pressures in various settings to use "form" motions and when such motions do or do not

---

11 This decision related to the choice within the clinical program about the kinds of cases to assign to students. Although most of our clinicians have come out of activist backgrounds and did work aimed at social change as lawyers, the clinics have decided that big institutional change cases generally are not the best ones for our students, who are involved for only a semester or a year, and cannot experience enough direct and primary responsibility for such cases. Because the cases are so complex and last so long, students cannot be expected to make major tactical and strategic decisions, but can only have secondary roles. We realized that externships created an opportunity for students to work in settings in which complex institutional reform cases were being litigated. In externships, they could begin to experience and reflect upon the challenges of institutional reform.
work. Developing this aspect of the students’ critical understanding was a function that our in-house clinics were not well-equipped to perform. Therefore, WCL’s in-house clinic would benefit from having a good externship program that encouraged students to look at law practice under the constraints of real world settings.

After several years of work, we had conceptualized ways that an externship program could augment and enrich students’ experiential learning opportunities rather than offer an inferior substitute for in-house clinical training. During this time, the clinical program had stabilized its position within WCL, and its clinicians had become fully integrated into the faculty. From this position, the clinic could better assess its own strengths and limitations, and could lend its support to the development of a complementary form of experiential pedagogy — one focusing on goals that the clinic itself could not fully address.

In summary, we developed in the course of our conversations an understanding of two areas of emphasis for reflection in an externship seminar. One was the acquisition of what we have termed “system knowledge”: that is, the inquiry into how systems work, what their advantages and disadvantages are, who they serve and dis-serve, and how they might be changed. The other was the acquisition of knowledge about what it means to be a working lawyer in a constrained situation and how individuals adapt or fail to adapt to such constraints.

We realized that both doing and watching in an externship setting would provide the raw material for reflection. Students would gather the requisite material for reflection about legal systems and legal practice at least as much by looking around them as from their own activities. This awareness of the importance of doing and seeing led us to the social science concept of “participant-observation”12 as a way of articulating the mixed role of our externship students. They were going to be in a particular milieu, participating in its characteristic local practices, but at the same time they would be collecting information in an attempt to develop critical perspective on that milieu and those practices.

12 See, e.g., William Twining, In Other People’s Power: The Bad Man and English Positivism, 1897-1997, 63 BROOK. L. REV. 189, 218 (1997): (“There is... the social science concept of the participant-observer, who — leanly interpreted — participates in order to observe. The concept is itself notoriously fuzzy; in order to avoid the Hawthorn effect, the observer of a rain making ceremony must be restrained about innovating or suggesting improvements in a subsequent debriefing session. The main point of participant-observation is to gain a better vantage-point and some first-hand experience of being part of the action.”) For another, somewhat different, example of social science (specifically, anthropological) methodology applied to the pedagogy of experience, see Gay Gellhorn, Lynne Robins & Pat Roth, Law and Language: An Interdisciplinary Study of Client Interviews, 1 CLIN. L. REV. 245 (1994).
We developed the concept of "text" as a useful metaphor for thinking and talking about how to use students' externship experiences in the classroom. The "text" in the classroom would not be just the assigned readings in the syllabus, but the seeing and doing of students in the field. This expanded idea of "text" became a core notion in the theory of our externship program. Our synthesis of this theoretical understanding of working with a "text" with clinical insights about reflection upon experience helped us to articulate the educational method of our externship program. From that synthesis emerged our emphasis on making the law school, rather than the field placement site, our primary learning space. In the field, students would gather the material that formed their "texts." In the school they would subject this material to various interpretations.

This choice of emphasis, in turn, raised further questions. In confronting how to make the school an effective learning space, we looked to clinical practice to see what could appropriately be borrowed for the externship context. The notion of supervision demanded immediate attention. The working group realized that we could draw on clinical models of supervision in crafting the educational practice of our externship program. We also borrowed from clinical methodology the notion of journals, which provided a tested and well-explored technique for students in the field to gather and record material as text for reflection.

From the outset, two important components of WCL's program were close supervision of students by teaching faculty and journal writing. The third was the externship seminar. Our commitment to this component grew directly out of our conviction that students' learning in the program should be school-centered. The seminar, we

13 A connected core insight stemmed from Peter Jaszi's work in applying interpretative theory to copyright law. See, e.g., Peter Jaszi, Toward A Theory of Copyright: The Metamorphoses of "Authorship," 1991 Duke L.J. 455. Peter's approach recognized that lawyers engage in all kinds of symbolic expression, only a small part of which we generally regard as legal text.

Elliott Milstein reports that the metaphor of the "text" has been current for some time in informal discussions of clinical pedagogy analyzing the role of student experiences in the educational project. However, we have been able to locate in the literature only limited use of the "text" metaphor in any way even tangentially related to how it is deployed in this article. E.g., Clark D. Cunningham, The Lawyer as Translator, Representation as Text: Towards an Ethnography of Legal Discourse, 77 Cornell L. Rev. 1298, 1339 (1992) ("The metaphor of the lawyer as translator would seem to lead naturally to the metaphor of 'representation as text' if the client's story is viewed as a text for the lawyer to translate for legal audiences. 'Text' also suggests an analogy to literary interpretation, which is the primary disciplinary cross-fertilization that gives rise to use of the translation metaphor by James Boyd White.")

believed, would provide a crucial site for learning. Specifically, we posited that students would learn more if they had the opportunity to talk with one another about their experiences, in addition to meeting regularly with a faculty member in individual supervision. In addition, organizing the seminar component meant in our institutional setting that faculty oversight of externship students was a legitimate, meaningful teaching activity. The final, concrete manifestation of these various ideas was Peter's submission and the faculty's approval of a course proposal for an externship seminar in 1992, which is annexed to the conclusion of this article. This moment represented a critical conceptual juncture in the development of our current externship program. In the subsection that follows, we review briefly some of the salient highlights of our program's subsequent development.

B. Highlights of the More Recent Past: 1992 — present

With the faculty's approval of Peter's externship seminar proposal, all of the main conceptual pieces of our current externship program fell into place. The major subsequent developments have involved the expansion of the number of faculty members teaching externship seminars and the range of offerings they provide, along with the gradual withering away of the individual tutorial model.

In the semesters following the launch of the first seminar, the WCL supervised externship program grew, as faculty members with diverse subject matter interests and pedagogical experiences were caught up in a wave of enthusiasm about this new effort. In part because the initial discussion of Peter's course proposal had provided a forum for the faculty at large to learn about seminar-based supervised externships, and in part because the initial seminar proved popular with students, new offerings proliferated. Early on, public law professor and civic activist Jamin Raskin decided to modify his Local Government Law course to function as an externship seminar. Other established members of the full-time faculty, such as civil procedure teacher (and former clinician) Nancy Polikoff, designed new seminars

---

15 We also had some extremely practical reasons for wishing to create a course offering related to externship activities. When we asked ourselves why our faculty appeared to be doing a relatively poor job in supervising externships under the individual tutorial mode, we concluded that part of the answer lay in the fact that faculty received no institutional credit or recognition for such supervision work. Instead, it was a service that faculty members took on in addition to their other teaching assignments. Too often, despite the best intentions, providing close supervision ended up being crowded out by other obligations. Allowing faculty members who supervised significant numbers of externship students to teach a seminar as one of their teaching assignments would, we believed, provide a solution to this dilemma.
to be offered within the program. A new faculty member, Jim Salzman, devised and offered an environmental law externship seminar shortly after his arrival at WCL and became one of the program's strongest supporters. Over the years, still more WCL faculty members have joined the ranks of those participating in the program, as discussed further below.

In Spring 1995, WCL had its long-awaited ABA site visit. The final report of the inspection team enthusiastically endorsed our supervised externship model, while noting its novelty in comparison to the approach prevalent in many other institutions and arguably implicit in the standards of ABA Rule 306; *i.e.* practicing attorneys who supervise externs in their workplaces are constituted as the primary deliverers of educational content, and schools take on the second-order function of selecting and monitoring those field supervisors. The inspection team's report accepted our program model as a legitimate alternative. Our site inspection team resisted any impulse towards formalistic rule-parsing, recognizing instead that our program represents a thoroughly thought-out set of pedagogical choices, rooted in the particular history and experience of our institution, with a clear statement of goals and a design intended to achieve those objectives. Thus, the outcome of the site visit had an important validating effect on our program. Significantly, moreover, the inspectors' report urged us to move toward phasing out the older individual tutorial model.

Subsequently, the legitimacy of our new undertaking was further reinforced when, in 1996-97, we were fortunate to have a respected figure in externship pedagogy, Professor Lisa Lerman of Catholic University, as a visiting faculty member. During her time at the school, Professor Lerman taught in the new program and assisted our development efforts by preparing a comprehensive internal report on the state of externships at WCL, again emphasizing the advantages of the new model over the traditional individual tutorial approach.

These external validations represented, in one sense, the "coming of age" of our program — a recognition that what had begun as a pedagogical experiment now deserved to be considered a stable feature of our local academic landscape. But with maturity, of course, comes responsibility — and risk. The externship program might now be viewed as "institutionalized" in a certain sense, but in the future it

---

16 Professor Polikoff has taught an externship seminar entitled *Feminist Theory in Practice*.

17 That individual tutorial externships survive at WCL, albeit in reduced numbers, reflects the preference of some individual faculty members to continue conducting supervision in this mode and some continued student resistance to committing the number of credits (typically 5 or 6) allocated to the combined seminar and field placement externships performed within the new model.
would need to be prepared to compete for attention and additional resources with other aspects of our general academic program.

Thus, those who had been involved with the program from its inception were particularly gratified by recent developments: the decision to designate a newly hired faculty member, Professor Susan Carle, as Faculty Coordinator, effective in the Fall of 1997, and, at the same time, to hire Marlana Valdez as the program’s Director. This commitment of institutional resources was both evidence of the momentum generated by the reports of Lisa Lerman and the ABA inspectors and a recognition of broad support within many sectors of the faculty. In a law school environment (or, at least, in our law school environment) innovative programs tend not to thrive unless they enjoy the same institutional advantages as other important academic activities. The identification of a full-time faculty member responsible for the externship program’s development was protection against risk of its marginalization and the hiring of an Externship Director acknowledged that its continued effectiveness would depend on the presence of an experienced, competent lawyer in charge of day-to-day operations.

Currently, we are attempting to build the WCL externship program in the same way that its basic outlines were first established — through an open, ongoing, transparent, collective discussion of the program’s goals, strategies, and problems among a mixed group of faculty self-identified as being interested in externships. The group includes the full-time and adjunct faculty teaching in the program, as well as some full-time faculty members who do not currently offer externship seminars but have in the past or may do so in the future.

This time-consuming process has several important benefits. Primarily it serves as a vehicle for improving and refining our externship pedagogy and for giving direction to our program. For example, when Peter Jaszi was originally developing the concept of a supervised externship seminar, the obvious question arose: “What would students read in such a seminar?” An interested group engaged in a collective brainstorming exercise on this question, meeting in a series of lunches to talk about potential seminar discussion topics and related materials its members had read and liked or used in other classes. Many of the readings suggested have become staple items in our reading lists. Various participants in the group, for example, proposed articles for inclusion in a unit devoted to the subtle dynamics of the lawyer-client relationship, and — in particular — the “construction” of the client in that relationship. In the same series of meetings, Professor Tom Sargentich argued for the inclusion of readings about the concept of bureaucracy, a topic that became a popular component of Peter’s sem-
In 1998-99, we are attempting to widen the circle of discussion still further, by holding a series of well-publicized luncheon discussion meetings devoted to topics in externship pedagogy. Among those we have covered (or will cover) are journal writing, the process of individual supervision, techniques for getting creative seminar papers, and an "idea swap" session on reading materials. These meetings, like all our collective discussions of externship issues, are open not only to teachers in the program, but to our entire faculty.

A secondary benefit of our discursive approach to developing an externship program is that it has served, and continues to serve, to increase the circle of participation by engaging a diverse group of faculty members. Thus, the ongoing discussion contributes positively to the acceptance of the program within the school. Any new program that calls on significant institutional resources always is potentially controversial within a faculty, since other faculty members naturally and appropriately may have alternative institutional priorities. The existence of a large, informal externship steering committee thus has been instrumental in "naturalizing" our program, making it truly a part of the fabric of the school.

As we have worked to make our faculty colleagues aware of our program's objectives and methods, we have also faced the challenge of articulating clearly to our students what the supervised externship seminar program is about — and why it could be of value to them. Promoting a new approach to externship programming has involved attempting to modify a deeply conservative student culture, toward a recognition not only that field experiences can yield real learning value, but also that classroom and supervision components can substantially increase that yield. Because of the WCL clinics' strong and positive reputation among students, the externship program's association with the clinical program gives it instant bona fides in our students' minds. At the same time, however, the popularity of our chronically oversubscribed clinics also has been a potential source of difficulty for the new program. We have had to be careful to clarify for students that clinical experiences and the externship program are not competitive or duplicative, but two different complementary approaches to experiential learning, both of which students may wish to sample during their WCL careers.

At the outset, a number of students did resist the imposition of a more formal structure on externship activities. It was initially quite difficult to persuade students to invest a relatively large number of
credits in a supervised externship experience. From semester to semester, it has become progressively easier, as students have spread the word among their peers that such experiences are enjoyable and worthwhile. Ultimately, it has been word of mouth among students that has proved to be the most critical influence in building the program's stature within the school.

Students' generally favorable current impressions of the program certainly stem, in part, from an appreciation of the learning value of a structured field placement experience. In addition, however, some of the program's growing popularity derives from a factor that none of us might have identified when the experiment began. Participation in the supervised externship program gives students the sense that faculty members are paying close attention to them and their individual educational progress — for perhaps the first time in their law school careers. At the end of an externship semester, students frequently say that the supervision they received from their externship seminar professor (a minimum of seven hours outside class, over the course of the semester, as we discuss further below) was "the most attention I've ever had from anybody in the law school."

II. COMPONENTS OF THE WCL SUPERVISED EXTERNSHIP PROGRAM

Having explained the history and conceptual underpinnings of our externship program in Section I above, we here describe in more detail both our externship seminars and our faculty supervision practices. Underlying the design of these elements is our philosophy that, rather than artificially constructing idealized work settings for our students, we should allow them to gain realistic work experience in their field placements, and that these experiences should then

---

18 Details about the administrative aspects of our program can be obtained by visiting our website at www.wcl.american.edu/pub/externship. Our student and faculty externship manuals, database of field placements, and contract materials are posted there, along with descriptions of specific course offerings (for both the regular academic year and the summer session).

19 In this respect, we allow — and indeed encourage — students to develop their own externship placements, provided that they will be assigned work of the same general character as that which would be assigned to an entry-level attorney in the same office. We use a multifaceted strategy to assist students in locating potentially suitable externships. In addition to word-of-mouth referrals and faculty recommendations, students have access to our searchable on-line database containing over 600 field placements (www.wcl.american.edu/pub/externship).

We also organize an annual Externship Fair which brings government and non-profit employers to the campus to meet and interview informally students interested in externships. Approximately 125 attorneys and 400 students participated this past year. The fair gives field supervisors an opportunity to become better acquainted with our school and students, and fosters the cooperative relationship between our program and legal employ-
form the nucleus of our inquiry into the nature of legal practice and the work of the lawyer.

A. Externship Seminars

In general, our externship seminars are graded, three credit offerings. As mentioned earlier, we have not eliminated the individual tutorial externship model altogether. However, the vast majority of our students working in externships currently enroll in an externship seminar as well. Faculty members receive full teaching credit for these courses in which they work with a maximum of 18 students. What takes place in these seminars is a mix of processing students' reflections on field experiences and discussing readings, films and other materials that provide students with some background and context with which to critically analyze these reflections.

1. Processing students' reflections on field experiences

The seminar classroom gives our faculty members a space in which to encourage individual students to open their field experiences to discussion and analysis by the entire class, enabling all its members to learn from each others' perspectives. For example, a student experiencing difficulty in interacting with support staff at her placement might be given an opportunity to raise the issue in class, providing the faculty member with the occasion to provoke a discussion of issues relating to hierarchy in the legal profession. This generalizing move may, in turn, stimulate other students to contribute to the discussion comparable (or contrasting) accounts of their own specific experiences. Many of us have found such class sessions, in which discussion

ers whose continued cooperation is essential to its success.

20 We recognize that an individually supervised externship may make sense on some occasions, such as when a student's externship is in an area within the personal expertise of a particular faculty member, but only if meaningful rather than pro forma supervision is offered. To ensure rigorous supervision in these circumstances, our faculty adopted new minimum individual supervision standards in 1997. These standards require that students meet with their faculty supervisors for approximately ½ hour each week, and that they keep a reflective journal or log detailing hours worked and projects undertaken. Students must also submit a substantial written work product for evaluation by the faculty member (usually a memo written for the externship, a portfolio of less extensive on-the-job assignments, or a research or reflective paper). At the semester end, the faculty member also must obtain an evaluation of the student's work from the field supervisor. The number of students registering for individual supervision has significantly decreased in the past two years, probably due to the passage of the standards coupled with aggressive marketing of the seminar-based model.

21 In general, faculty members do not take the initiative in raising individual students' experiences, as revealed (for example) through journal entries, for discussion by the group. They do attempt, however, to create opportunities for those students to put such experiences on the seminar's "agenda" by their own choice.
flows back and forth across various planes of generality and specificity, to be among the most rewarding of our teaching experiences in the program.

Other benefits also accrue from the organization of our supervised externship program around the fora of externship seminars. One inherent limitation of externships as an introduction to the work of lawyers is that the range of issues to which any one student can expect to be exposed in the course of a semester necessarily is limited. In the seminar, however, this limitation can be overcome, at least to a degree. At their class meetings, students have the opportunity to learn about one another's placements and to reflect on the variety of work settings represented in the class. For example, a student planning for a career in international law (and doing a related field placement) may be so intrigued by another student's description of his externship working with domestic violence victims that she considers a change in her own career focus — or at least plans to investigate the new area further through a future externship! Or (as regularly occurs) a student with an externship in a prosecutor's office may gain new perspective by engaging classmates who are involved in indigent criminal defense work. The seminar also offers a relatively safe space for expressing doubts and disillusionment when idealized views of law practice are challenged by the reality of the field placement experience. For example, students engaged in their first externship experience at a public defender's office may be disturbed by the complexity of the ethical issues they confront and the realization that many of their clients are neither innocent nor sympathetic. A student moving through this initiation alone may feel isolated by the experience and begin to question her prior interest in criminal law practice. When several students enrolled in a seminar are working in similar placements, they can use the seminar as a clearinghouse for these doubts and draw support from the discovery that some or all of their individual reactions are shared by others.

Through discussion with classmates working in other field placement settings, "disillusioned" students also may learn that their reactions are not unique to the particular practice area in question. The "disillusioned" student at the public defender's office may discover that the student working in a prosecutorial setting may be "disillusioned" by the low level of attention given to "routine" cases that nevertheless have an enormous impact on the defendants and other participants in the system. At an even more practical level, the seminar also provides a unique opportunity for work on problem solving. A student experiencing a problem in her field placement may bring it to the class for discussion and brainstorming. The suggestions of class-
mates may then be implemented in the field placement and the results of the effort brought back to the class, providing fertile new ground for discussion of workplace coping strategies.  

2. Seminar Themes

As noted above, the externship seminars are more than open fora for student discussion. The work in the seminar meetings also involves discussion of assigned readings, selected both to encourage or inform students' discussions of their experiences and to illuminate the larger issues that have been selected for the various seminars. These themes reflect the backgrounds and interests of the various faculty members who have responded to the invitation to develop externship seminars. In each case, however, the seminar theme has been selected not only for its inherent interest or importance, but because the faculty member believes that it will serve as a useful vehicle for promoting reflection about lawyers' roles in the legal system and the larger social order.

As the diversity of our externship course offerings reflects, our faculty members have developed several varieties of seminars. Some are organized around a particular substantive area of law (for example, environmental or local government law). In these offerings, a significant part of the assigned readings (and, thus, the class discussion) will focus on relevant doctrinal and policy issues. Other seminars are open to students with many different kinds of placements, but are organized around readings designed to expose insights that a particular theoretical perspective (such as feminist theory) may offer into law and lawyering in various settings. Still others adopt an even more "generic" approach, by invoking a unifying theme that invites or justifies the use of a more open-textured set of readings to generate class discussion. Instructors in these "generic" seminars employ a variety of pedagogies to explore the work of the lawyer and the workings of

---

22 In other, differently structured externship programs, a faculty supervisor might respond to a student's difficulty by placing a call to the field supervisor. Such direct interventions are unusual (although not unknown) in our program. The working philosophy is that externship faculty should seek to build students' confidence in their own problem solving skills, so as to better prepare them for post-graduation workplace experiences. Ultimately, the student is encouraged to take responsibility for ensuring that the externship is a positive experience — and to enjoy the satisfaction of having done so successfully.

23 Last year our externship seminar topics included Administrative Law, Environmental Law, Examining the Lawyer's Role, Feminism in Theory and Practice, Issues in Sexual Orientation, Law and Narration, Lawyering in the Public Interest and Government, Lawyers in Cross-Cultural Perspective, and Local Government Law. This year, we have added several new offerings to this list, including Issues in Advocacy for Children in Public Systems of Care, Lawyering in Public International Law and International Human Rights, Advanced Tort Law, and Public Information Law and Policy.
legal institutions. In addition to assigning readings relating to the seminar’s theme, our externship faculty members require students to maintain a journal of their experience, attend class regularly and write a final paper, which may be either reflective or research-based, depending on the orientation of the particular seminar. Students receive letter grades in the seminar based on their performance in connection with these various exercises, and they receive additional ungraded credits for their field work.

B. Student Supervision

Complementing the classroom discussions that occur throughout the semester in our supervised externship seminars are the weekly supervision meetings through which our faculty members provide students with individualized attention. It is crucial to the design of our program that these individual and small-group supervision meetings are conducted by the same faculty members who teach the various seminars, thus ensuring a high level of continuity and consistency between the approaches taken in these two closely related program components. In addition to encouraging student reflection along lines that

---

24 For example, the Law and Narration seminar uses stories about lawyers (including literary classics, movies, and lawyer jokes) to draw students into thinking about choices that may arise in the course of their own lives in the law.

25 Many faculty members also give students varying degrees of responsibility for the conduct of particular classes, from requiring them to make prepared class presentations on topics relating to assigned readings or other issues, to turning over the choice of discussion topics and supporting readings to student teams. Increasing numbers of faculty also ask students to prepare brief writing exercises (from a few paragraphs to a few pages) as part of their preparation for particular classes. These assignments may involve responding to assigned readings or to a question designed to provoke meta-reflection.

26 Students receive three credits for the seminar, two credits directly attributable to the seminar itself (which meets two hours per week) and one for participation in individual or small group supervision meetings, which includes maintaining a reflective journal. Students working under the individual tutorial externship model receive one ungraded credit for the work relating to the supervision of the placement (journal entries, meetings with the supervising professor, and the like).

27 Students earn between one and three credits for their field work depending on the number of hours worked. Students must complete 140 hours of work (approximately 10 hours per week over a 14-week semester) to earn one credit; 210 hours (approximately 15 hours per week) to earn two credits; and 280 hours of work (approximately 20 hours per week) to earn three credits. While at first glance WCL seems to require more hours of field work for less credit than most other law schools, our students in fact receive credit at effectively the same rate as those in other programs. This is so because, as a matter of "credit accounting," we separate from field placement credits the one credit attributable to supervision, in an attempt to give formal recognition to the importance of the supervision component. Thus, a typical student who works 15 hours per week at a field placement typically earns five credits in all the components of the seminar-based supervised externship program, and 3 credits if the work is undertaken as part of an individual tutorial externship.
will inform subsequent seminar meetings and following up on the implications for particular students of issues raised in previous classes, the supervision meetings also provide a space in which students can discuss issues that they may feel uncomfortable raising in the larger group, while providing faculty with an opportunity to monitor students' progress more closely than will generally be possible by other means. The conversation in supervision meetings is rooted in the entries recorded by students in their reflective journals during the previous week.

Although we have not adopted any standardized format or content requirements for student journal entries, a common practice has nevertheless emerged. Generally, instructors encourage students to make a journal entry in connection with each work session at the field placement, and to do so as near as possible to the work experience covered. Although we recommend that students include information about hours worked and projects performed, we insist that they do more. We demand that each journal entry include elements of reflection on experience, which might take the form, for example, of a "thick" description of a particular workplace experience or an observation or a meditation on the mission of the office or agency in which the student is performing his or her externship.

Journal entries are treated as confidential between students and faculty members, who do not share their contents with other students or with the seminar group. On occasion, however, faculty members may encourage students to consider using a seminar meeting to discuss the substance of a particular journal entry and may attempt to create opportunities for this reporting to take place.

28 See Clifford Geertz, *Thick Description: Toward an Interpretative Theory of Culture*, in *The Interpretation of Cultures* 3 (1973); see also Lucie White, *Lessons from Driefontein on Lawyering and Power*, 1988 Wis. L. Rev. 699, 700 & n.5 (undertaking a "thick description" that would not "impose an authoritative meaning on events" but would leave in "[q]uestions, tensions, and gaps" about observations of anti-apartheid lawyering practices on visit to South Africa); Paolo Wright Carozza, *Organic Goods: Legal Understandings of Work, Parenthood, and Gender Equality in Comparative Perspective*, 81 Cal. L. Rev. 531, 534 (1993) (referring to "'thick description' of . . . respective legal orders; that is, through the language of qualitative, contextual description rather than through merely formal, external description").

29 In some placements, students may have concerns about how much and what kind of detail is proper to include in a journal entry. Faculty members encourage students to consult with their field supervisors concerning this issue and, after they have discovered the rationale for the guidelines or requirements concerning disclosure of information, to analyze the rationale adopted by the placement. For one thoughtful beginning in thinking through the host of difficult ethics issues presented by externship placements, see Bloch, *supra* note 1.
III. Thoughts on the Future of Our Externship Program

Any planning for the future of our externship program must come from our understanding of its past. We must build on the strengths our program has developed over time and avoid doing damage to the founding conceptions that have allowed our externship program to flourish in the particular culture of our law school. At the same time, we must avoid being overly limited by conceptions of how things “have always been done.” As we move from an initial period of conceptualization of the program into a new period of consolidation and expansion, we must retain the original willingness to experiment and push the analysis of the interface between practice and theory that led to the development of our externship model in the first place. Although we did not begin our program with a comprehensive exercise in goal setting, we are at a moment when it is useful to review and renew our understanding of the goals that have emerged through the process of developing our externship program.

By engaging a broad group of full-time faculty in the process of conceptualizing, implementing and modifying the program, we have created a program characterized by a diversity of approaches. This feature, although occasionally frustrating to those involved in daily administration, is one of its greatest strengths. By fostering this diversity, we have developed multiple opportunities for our students to learn from experience. The interaction among a group of faculty pursuing similar, yet varied, externship projects is one of the attributes of the program we most want to retain as we move forward into the future. We have staked out a space where faculty with a variety of interests and teaching styles can experiment with teaching that can integrate theory and practice. We want to expand that effort and deepen our collective knowledge of ways that students’ experience in legal settings can be made an integral part of their legal education.

Throughout the development of our program, we have shared a deep commitment to do the best possible by our students in helping them launch themselves into satisfying, socially productive careers. This goal pushes us to constantly re-evaluate our externship curriculum in order to respond to student demand for particular types of externship seminars, workshops, and field placements. We want to maintain a focus on providing experiences in which students seek in which they can learn what it means to be a lawyer, how they want to shape their own lives as lawyers, and how they can contribute to shaping the legal profession.

Another — sometimes controversial, but longstanding — goal is a commitment to foster and preserve our program’s public service ethic. This goal arises out of the history and culture of our law school
and the moral and political orientations of most of those who have been involved in the program's development. We wish to evaluate the possibility of placements in for-profit settings in light of our commitment.

Inevitably, in the entrepreneurial environment of our law school, our program will be pushed to expand in new directions, become more visible, and take on new challenges. The questions that are open for further deliberation do not involve whether to generate movement within our program, but instead how to channel the fast pace of our institution's momentum in directions that will best serve our program. We need to ensure that the strong institutional support for the development of externships coexists with our ongoing thinking about the directions in which we want our program to move.

With these considerations in mind, we see some specific developments in the short-term future of our externship program.

A. Externship Seminars

The diversity in our externship seminar faculty creates the potential for tremendous cross-fertilization as we each experiment with pedagogical techniques and goals that fit our particular interests. But the diversity of faculty creates challenges for those who are involved in giving shape to the program. The seminars with a substantive focus offered so far have been successful because they have concentrated, not on doctrine, but on critical analysis of relevant legal systems or subsystems and the tension between law on the books and law in operation. They have provided a valuable complement to the seminars that are organized more thematically. We must continue to work to ensure that our pluralistic approach leads to richness and not chaos.

In the future, we hope to build on the already strong collaborative relationship between the externship and clinical programs at WCL. A number of WCL's clinical faculty were among the nurturing and guiding forces that gave birth and direction to the externship program. Other clinic faculty have brought their experience to the teaching of externship seminars. Still others have been generous in sharing their experience, training materials, and other clinic resources with the externship program. We hope this trend continues, despite the heavy demands that in-house, live client clinical teaching places on clinical faculty.

Our externship seminar program must also grow in the recruitment of diverse adjunct faculty to teach externship seminars along with full-time faculty members. We have several excellent adjunct faculty currently teaching in the program. In deciding whom to recruit for these positions, we are guided (in particular) by student input
asking for more externship faculty and/or seminar guest speakers who are alumni of this law school and thus can serve as special models of what our graduates can achieve. As our thinking about our externship pedagogy develops, the importance of this “modeling” function our externship seminar faculty plays becomes increasingly clear. Our students often express in their journal writing, directly and indirectly, that they are looking — in their field work experiences, their externship seminar instructors, and the seminar materials they read — for models of lawyers they can see themselves one day becoming.

A final issue related to the development of externship seminars concerns a longstanding discussion, initiated by then-Dean Elliott Milstein, about expanding the opportunities our school offers students to engage in reflection about their work in legal institutions regardless of whether they are working for pay or for credit. In this vision we should be providing opportunities for reflection to students who are working in any kind of legal setting. Although we would not contemplate offering credit to students for paid work, there does not seem to be any principled reason to discriminate in other ways between work for which students are receiving pay and work for which they are receiving credit. One could argue that students are having their most powerful and formative legal work experiences, good or bad, in settings in which they are working for pay. All of us who have taught in our program have encountered students who have had more to say in their supervision sessions or seminars about their summer jobs or their present paid employment than about their externships. They are, in effect, using the reflective opportunities offered by our program to process this salient information about what it is like to work as a lawyer for pay.

As an institution we have not yet fully appreciated that our law students are in the world of work from the very early stage of their law school careers. But we must eventually come to terms with and respond to this fact in our experiential learning curriculum. We may decide to start out with a less intensive forum for these students — perhaps some small group sessions offered on a voluntary basis. At this point we have only the most general ideas about how to address these matters, but we look forward to focusing on them in the future.

B. Developing Our Externship Pedagogy

Although our externship seminar faculty now share their insights gained from experiential learning, an important goal for our program is to further institutionalize this process. The Catholic University symposium provides one impetus for thinking more about our externship pedagogy at WCL. Another device is our monthly meetings of faculty
interested in the externship program, which we discussed above. In addition, the externship program presented this year for the first time a series of faculty seminars that served to introduce the theory and methodology of the program to the entire faculty. Our hope has been not just to educate the faculty about externships, but also to increase the numbers of faculty who want to participate in externship teaching. We need to continue and expand these seminars.

In addition, we hope that increased faculty participation in and discussion about externships may foster scholarly writing that is rooted in the experience of externship teaching and supervision. We anticipate being involved in the development and expansion of a new genre of legal scholarship that is neither doctrinal nor clinical, but that takes as its point of departure the idea of experience as text around which our externship program is organized. This scholarship can supplement the existing work of the clinical movement and the law and society movement by presenting the experience of working lawyers in the legal system as the object of academic reflection.

C. Development of Summer, International, and Out-of-Town Externship Programs

We can safely predict that our externship program will grow in the near future through further development of our summer program, which has expanded exponentially over this past summer alone. In combination with the Federal Regulatory Process Program, almost one hundred of our students took advantage of the opportunity to do supervised externships this summer, and we expect student demand to be even larger in coming years. Thus an important priority for our planning this year will be anticipating and responding to our students' interest in a supervised summer externship program.

Another issue confronting us in the immediate future is the extent to which we should permit students to do externships for academic credit during the summer when the field placements they wish to pursue are out of town, especially overseas. Driven largely by student demand, this issue has taken on some urgency. Our present plan is to assess the results of our experiment with a limited number of such out-of-town arrangements this past summer, in which students met with faculty supervisors in intensive seminars and small group meetings before and after their externships. These meetings were supplemented with weekly journal writing and feedback via e-mail throughout the summer. We are also exploring technology that would allow us to offer interactive supervision sessions with faculty.

30 See the discussion at p. 408, supra.
throughout the course of students' out-of-town field experiences.

Another possibility, under very preliminary discussion at this point, would involve the development of sister school relationships between WCL and law schools located in other areas of the country through which each school would provide structure and supervision for students doing externships in its geographic area.

D. Externships in the Private Sector

Perhaps the most controversial issue confronting our externship program at present is whether to change our current policy to permit students to do unpaid externships for academic credit in the private sector. Our current policy allows field placements in any government (state, local, or federal) or non-profit organization, or in any pro bono project in private law firms (provided that the organization agrees to meet our standards for providing students with an educationally rich experience). This policy has its origins in the public service objectives that were integral to the founding of our externship program. The question whether to permit students to receive credit for field placements if they have unpaid positions in fee-for-service settings raises important pedagogical issues. Most of the kinds of learning that students who work in public sector settings get could also be realized in fee-for-service settings. Thus, allowing students to obtain unpaid field placements in the private sector would extend the range of options for students participating in our program but might significantly dilute the service focus that underlies the program's history.\textsuperscript{31}

Preliminary discussions have surfaced many important considerations pointing in opposite directions on this question. Factors in favor of changing our policy include increased field placement opportunities, although our location in Washington, D.C. makes any lack of potential field placements the least of our concerns, even under our current policy. Another, perhaps more compelling, argument in favor of changing our policy goes to the pedagogical value of having seminar students' field placements span a broader range of potential job settings so that they can compare and contrast roles of private firms, government agencies, and public interest organizations, as well as the experience of working in these diverse settings, when sharing their field work experiences in class.\textsuperscript{32}

\textsuperscript{31} That service focus is arguably already significantly diluted by our rather generous definition of a qualifying placement, which allows students to intern at commercial trade associations and other similar organizations incorporated as non-profits.

\textsuperscript{32} Alternatively, some of the same advantages might be obtained by allowing students working without pay in firms and similar settings to enroll in externship seminars without receiving any course credit for their field placements as such.
Considerations of at least equal weight have been raised on the other side. Many faculty and administrators have expressed concern about damaging the job market for our students who are working for pay at local law firms by creating a competing market of unpaid substitutes. Allowing students to do their field placements in institutions motivated by profit incentives also arguably creates a greater potential for exploitation than does our current program restricting students to public sector opportunities. The resolution of this issue awaits more faculty discussion.

E. Working With Field Supervisors and Targeted Placement Development

Another area we have targeted for further development involves increasing and strengthening our relationships with field supervisors so that they will have a clearer understanding of our pedagogical intentions in the externship program. We hope, with greater communication, they will be more likely to give our students an experience that is as much as possible like the experience of other beginning lawyers in their office.

A delicate issue concerns interventions with field supervisors when a series of students report consistently on some defect in a placement, especially a placement to which our students frequently return. Our model directs us to try to solve routine problems indirectly, through guidance of the student in supervision meetings, rather than through interventions with the supervisor that bypass the student. We also usually encourage students to stay in placements in which they are encountering routine problems in order to work on developing the skills necessary to deal with problems that inevitably arise in workplace settings. We fully appreciate, however, that there are circumstances in which "exit" (rather than "voice" or "loyalty," to borrow from Albert Hirschman\textsuperscript{33}) is the most rational response, and in those situations we support our students' decisions to leave problematic placements. We need, however, to develop a plan to improve certain field placements that have current, and even more potential, value but are nevertheless flawed in some significant respect. Our strategy is to try to improve our students' placement experiences by addressing the organization at a policy level, rather than intervening in any given student's experience.

Another long-term goal involves our gradually becoming somewhat more directed in our thinking about placement development.

\textsuperscript{33} ALBERT O. HIRSCHMAN, EXIT, VOICE & LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES (1970) (presenting an analytic typology of strategies available to individual constituents of flawed institutions).
While leaving students free to find placements on their own initiative, we would like to develop more systematically certain types of placements that may offer superior educational opportunities for many students. We thus are in the process of identifying areas in which we would like to increase the numbers or visibility of our externship placement opportunities.

F. Expanding Other Resources

Currently, we are expanding the resources our externship program offers students, including such projects as refining our recently completed electronic database of field placement opportunities, improving our collections of student evaluations of their experiences in externship placements, and sponsoring job fairs, receptions, workshops and other events in which students and potential field placement supervisors can come together. We plan to continue all of these initiatives and we look forward to continued institutional support for their expansion.

CONCLUSION

In the foregoing, we make no claims of either uniqueness or special value for the WCL Supervised Externship Program. Rather, we attempt to narrate how a particular model of externship pedagogy actually emerged in an institution with a particular history and local culture. Thus, we approach the question of what “learning value” our experience may have for others with both caution and extreme humility. That said, there nevertheless may be embedded in our experience a few lessons that deserve the attention of those who are considering creating or revising their own externship programs. Very tentatively, then, we have identified the following points as potentially worthy of consideration:

— Every new (or reinvented) program must grow out of the relevant special characteristics of the institution in which it is embedded. In our case, those were primarily the strengths of our clinical program and our school’s commitment to program development, but in other institutions, the point of departure might well be different.

— The involvement of full-time faculty (especially those of relatively senior rank) at every stage of program development and execution is extremely helpful in legitimizing a new program and justifying its claims on institutional resources. To achieve this involvement may entail orienting parts of the program in a way that recognizes and builds on the substantive expertise and interest of faculty members, in addition to building upon the thematic approach employed in our generic seminars.
The identification of a full-time faculty member as externship director or coordinator appears to be an important safeguard against a program's subordination or marginalization in the institution.

Time invested in discussion of program aims and practices is never wasted, at any stage in a program's history. The broader the circle of discussion, the more useful it is likely to prove.

Externships and clinic are two different forms of experiential education. Each institution needs to think through the relationship of the two within its own particular institutional life. Within some institutional settings, the separation of these two types of experiential learning may be desirable. Autonomy, with cross-fertilization, may nurture the development of strong, independent theoretical underpinnings for the externship program, while supporting the idea that externships provide a different and complementary opportunity for students to learn about law, lawyers and legal institutions.

Taking time to involve and educate the leadership of the institution is necessary to achieve educationally sound results. Externship programs, if pedagogically sound, are resource intensive and potentially controversial within an institution. The support of the law school's leadership is crucial in obtaining necessary resources and securing institutional acceptance. Therefore, investments of time in educating the dean and other institutional decisionmakers in advance of the final articulation of the program are critical to the program's success.

Although there should be room in any program for a diversity of approaches, each student's learning experience needs to be characterized by internal pedagogical consistency. Specifically, it is important that in a classroom-based program such as ours, the faculty members responsible for the conduct of each seminar also should have responsibility for the individual supervision of the students enrolled in it.

The ultimate success of programs that demand significant time and commitment from students may be determined by the collective attitude of the student body toward the value of the educational experiences that are the components of any model. The leaders of externship programs have the burden of persuading students of the benefits of programs that require students to engage in self-conscious, guided reflection on their experience.

The ways that these issues are resolved within different institutions will give us continuing insights about the possible educational objectives that externships can support. Taken together, these efforts will provide new ways to conceptualize how the experiences of our students in the world of the law can expand our vision of the educa-
As you know, the problem of what to do about field placements for credit (variously designated as “internships or externships”) in our curriculum has been with us for some time. Indeed, the possibility that we weren’t doing enough was raised at the time of our last ABA inspection, and the issue seems likely to arise again when we are inspected later in this academic year. In the intervening years, the ABA has revisited accreditation Standard 306, which requires that field placement credit be “commensurate with the time and effort expended by and the education benefit to the participating student.” The existing interpretation of that standard was promulgated in 1986, and a more detailed one is likely to be adopted when the ABA Council meets this coming December. Copies of the two versions under consideration (as well as the existing interpretation) are attached to this memo: What is critical for present purposes is that BOTH proposed versions require accredited law schools to take more responsibility for externships than does the existing standard — and than we have taken in the past. In particular, the Standards Review Committee draft of the new interpretation (which seems most likely to be adopted) specifically includes the presence of a “classroom component” as a factor to be considered in evaluating externship programs.

Therefore, I’m proposing a course which I hope may be a model for one way to better meet our evolving institutional responsibilities for externships. The course would be open, on the approval of the instructor, to students who have secured field placements in a variety of different settings (including private non-profit organizations and government agencies). Participation would be conditioned on the professor’s approval of the particular placement, after a conversation with the individual or individuals who would function as the student’s field supervisors. Participating students would earn 5 semester hours of credit for an externship involving a minimum of 15 weekly hours of field work, and 6 semester hours of credit for one involving a minimum of 20 weekly hours. Course requirements would include (1) satisfactory completion of field work, (2) participation in regular individual supervision meetings with the WCL instructor and (3) at-
tendance at sessions of a weekly two-hour classroom meeting with the instructor and other students enrolled in the course.

The objectives of this new approach to externships is several-fold. First, it is designed to assure that participating students are placed in settings where they can derive real educational benefits, both from the work they perform and from the supervision they receive; to fulfill this goal, the WCL instructor would screen the proposed externships of students seeking to enroll, and would remain in close contact with the field supervisors of those students admitted to the course.

Second, this approach is intended to assure immediate, ongoing feedback, on an individualized basis, to students participating in an externship activity. At present, some faculty members supervising externships emphasize end-of-semester reviews of student work-products as the basis for their evaluation of student performance. And although end-of-semester performance reviews certainly have a role to play in decisions about the grant of credit for externships, and would play a part in the new supervision model proposed here, such reviews do relatively little to enhance the “education benefit to the student” to which ABA Standard 306 refers. In the new supervision model, students meeting on a regular basis with the course instructor would be actively encouraged to reflect upon their work experiences DURING the semester. In aid of this objective, students would be required to maintain contemporaneous journals, and to submit examples of their work-products on a regular basis. Obviously, the content of these supervision sessions would vary from week to week, and from student to student. Among the topics likely to be discussed would be progress (and difficulties) with specific work assignments, legal research questions, ethical considerations, and issues relating to the group dynamics of the workplace.

Third, and finally, the proposed approach to externship supervision would aim to give ALL participating students a shared educational experience, and a forum for sharing lessons about lawyering learned “on the job,” in the form of a classroom component. It should be stressed that the education focus of the classroom component, like that of the course as a whole, would not be on teaching students about substantive legal doctrine (although doctrinal issues would undoubtedly be addressed), nor on imparting specific lawyering skills (drafting, interviewing and counseling, negotiation, and so forth). Rather, the emphasis would be on helping students to put their field placement experiences in larger context, and to use those experiences as a medium for raising larger issues about the law’s function in society, the institutional role (or roles) of the legal profession, the dynamics of legal change, and — of course — the subjective “feel” of lawyering
itself.

The content of these weekly seminar-style meetings (which would be limited, like the course itself, to no more than 15 students) is necessarily difficult to predict; much will depend on the placements, interests, and experiences of the students enrolled. However, a hypothetical series of topics to be addressed over a semester might include:

Week 1: Introduction to the course and the field placements of the students
Week 2: History of the legal profession
Week 3: Lawyer and client: Problems of identification
Week 4: Imagining the lawyer's role in fiction and popular culture
Week 5: Imagining the lawyer's role, continued
Week 6: Discussion of initial writing assignment
Week 7: The theory of bureaucracy and its relation to the lawyering process
Week 8: The dynamics and politics of the workplace
Week 9: Legal ethics in theory and practice
Week 10: The legal academy in relation to the world of practice
Week 11: Legal research and writing in the trenches
Week 12: Career goals and career planning
Week 13: Student presentations
Week 14: Student presentations

As this outline suggests, students would be expected to prepare two 10 to 15 page papers, on agreed-upon topics, in the course of the semester. The first set of papers, which would relate to assigned readings, would be submitted to the instructor and would form the basis of a general class discussion at mid-semester. The second set of papers, which would relate to students' specific externship experiences, would be presented by them in class at the conclusion of the semester. The instructor's evaluation of these papers, along with his or her assessment of students' class participation and field work, would be the basis of the grade in the course. Students wishing to expand a course paper to fulfill the upper-class writing requirement would be encouraged to do so, but no extra credit would be awarded in connection with such expanded papers.

Readings for the classroom component would be drawn from a variety of disciplines, including law, sociology, and anthropology. Extensive use would be made of fictional as well as documentary materials. To the extent feasible, guest instructors would be invited to take part in specific class sessions over the course of the semester.