Two-Way Traffic: The Scope for Clinics to Facilitate Law School Community Engagement

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Two-Way Traffic – The Scope for Clinics to Facilitate Law School Community Engagement

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Abstract
This paper explores various contributions clinical legal education programs can make to law school efforts to effectively engage with their professional and local communities. Australia has a rich and distinctive history of clinical legal education, one which emphasises both the learning opportunities for students and the community service outcomes that clinics generate. Clinics have also been important in enabling Australian law schools to forge links with the practising legal profession.

The paper includes case studies of Australian clinics that have been effective in integrating insights across the activities of the law school, enabling links to be forged with a broad range of groups and institutions. Reference is also made to the contributions of clinicians to new approaches to teaching and curriculum development as well as linking clinics with the research activities of law schools. The paper emphasises the importance of genuine sustained engagement with community agencies suggesting that the key to success is long-term relationships, both institutional and personal.

Introduction
This paper considers various ways in which law school engagement with communities can be fostered by the activities of clinical programs. It will be argued that clinics can facilitate a range of links between law schools and the various communities with which they are connected. Clinics should be one but by no means the only focus of the community engagement activities of law schools. The development of long-term collaborations will be important in fostering community engagement as will the integration of clinical insights across the teaching and research activities of law schools. Clinics are already making important community engagement contributions in some law schools and this paper includes examples drawn from Australian programs.

Law schools can benefit from having clinical activities integrated across both the teaching and research dimensions of the school. Such integration is linked to what could be described as ‘clinic fluency’, which relates to the familiarity of people with the characteristics of clinical learning in law.¹ This involves more than an appreciation of the benefits of students learning in a practice setting. It also relates to understanding the range of clinical models available, the strengths and limits of each such model, the importance of clear learning objectives and the value of

∗ Professor, Griffith Law School, Nathan Campus, Brisbane, Australia. This paper draws on my PhD research on the factors that influence the establishment and sustainability of clinical programs. A companion piece has been published in the recent symposium on clinical legal education in the Griffith Law Review. See ‘Contemplating the Future of Clinical Legal Education’ (2008) 17 (1) Griffith Law Review 1.

¹ This is derived from Michelle LeBaron's description of ‘cultural fluency’ and ‘conflict fluency’ in her discussion of international dispute resolution. See Michelle Le Baron, Bridging Cultural Conflicts: A New Approach for a Changing World, (2003).
sequencing the use of the various clinical models in tandem with other teaching methods.

There is no definitive definition of clinical legal education. It sometimes means different things to different people. Some refer to students developing their skills at the ‘front line’ of legal practice while others take a broader view. My definition is as follows:

Clinical legal education involves an intensive small group learning experience in which each student takes responsibility for legal and related work for a client (whether real or simulated) in collaboration with a supervisor. Each student takes the opportunity to reflect on matters including their interactions with the client, their colleagues and their supervisor as well as the ethical dimensions of the issues raised and the impact of the law and legal processes.

This student-focussed definition seeks to emphasise the unique aspects of clinical legal education: students work closely in small groups with a supervisor and fellow students, they take responsibility for their work and its impact on clients. They also reflect in a structured manner on what they have done, paying particular attention to ethical issues and critical analysis of legal processes. Students are given the opportunity to consider how the theory-based learning they have done elsewhere in their studies can connect with the practice of law.

In considering the contribution clinical programs can make to community engagement, it is important to note the range of communities which law schools serve. These include student communities (principally students studying law but also other disciplines), the practising legal profession, the judiciary, government agencies, consumers of legal services and the general public. Enabling clinics to productively contribute to such communities requires careful planning.

Clinical Legal Education Across the Globe
This section of the paper provides a brief outline of the ways in which clinical programs have developed in a wide range of countries. The purpose of this coverage is to demonstrate how clinics can develop to meet local conditions and address local concerns. Countries including Australia, Canada, Chile, England, India, South Africa and the United States have clinical programs that serve diverse communities.

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Africa\textsuperscript{8}, the United States of America\textsuperscript{9} and Zimbabwe\textsuperscript{10} saw the development of clinical programs in the 1960s and 1970s.\textsuperscript{11} New law schools with young academics and socially active students drove much of this development.\textsuperscript{12} Chile, India, South Africa and Zimbabwe are examples of nations where community service imperatives and state expectations about law schools playing a substantial role in legal service delivery were central to the establishment of the early clinics.\textsuperscript{13} Clinics also consolidated their presence across Eastern Europe, Latin America, Asia, Africa and the South Pacific through the late-1990s and into the 21\textsuperscript{st} century.

In various countries, early clinical programs often developed out of volunteer programs. Springvale Legal Service operated with very substantial volunteer input from Monash University law students for 2 years before it became Australia’s first clinical legal education site. The clinic at the University of Natal, Durban started on a voluntary basis for both students and academics and it was 6 years before students were granted credit for their work.\textsuperscript{14} For much of the twentieth century, students from many US law schools operated volunteer legal aid services until for-credit programs were developed in the 1970’s.\textsuperscript{15} This history indicates that new clinical programs may develop from current law school pro bono initiatives with volunteer programs being a stepping-stone to the establishment of for-credit clinics with a strong focus on both student learning and community service.

Australia has seen growing interest in clinical legal education with the establishment of new programs in 2003\textsuperscript{16} and 2004.\textsuperscript{17} Several trends can be discerned in these developments. Law schools are no longer developing clinical programs through establishing their own clinic site. Rather, clinics are being grafted onto existing community and government agencies. It is now more than a decade since La Trobe developed a clinical partnership with Victoria Legal Aid, the first Australian clinic not involving a community legal centre.\textsuperscript{18} There has also been a proliferation of ‘public interest’ clinical courses with such courses now available at 7 law schools.\textsuperscript{19}

\begin{itemize}
  \item \textsuperscript{8} David McQuoid-Mason, \textit{An Outline of Legal Aid in South Africa}, (1982).
  \item \textsuperscript{9} Philip Schrag & Michael Meltsner, \textit{Reflections on Clinical Legal Education}, (1998).
  \item \textsuperscript{10} McQuoid-Mason, above, note 8, 185-188.
  \item \textsuperscript{11} \textit{Ibid}, Part Three.
  \item \textsuperscript{12} Gavigan, above, note 4, 7-8.
  \item \textsuperscript{13} McQuoid-Mason (1982) note 8, Part Three.
  \item \textsuperscript{14} Interview with David McQuoid-Mason, Krakow, Poland, 25 July 2004.
  \item \textsuperscript{15} For example, see Laura Holland’s history of the clinical program at Yale Law School where a volunteer program operated for 40 years prior to the establishment of a program which attracted academic credit for students. Laura Holland, ‘Invading the Ivory Tower: The History of Clinical Education at Yale Law School’ (1999) 49 (4) \textit{Journal of Legal Education} 504, 510-11.
  \item \textsuperscript{17} \textit{Ibid}, 16-17, 22, 31-2. The Australian National University, Bond University, Macquarie University, University of Queensland and the University of Sydney all established programs in 2004.
  \item \textsuperscript{19} Griffith University, La Trobe University, Macquarie University, Monash University, University of Newcastle, University of Sydney & University of Western Sydney. See National Pro Bono Resource Centre, above, note 16.
\end{itemize}
Specialist clinics have become increasingly prominent in the 12 years since Monash developed Australia's first such program. There are now 7 clinic options at Griffith Law School, 5 of a specialist nature. The University of New South Wales (UNSW) Law School provides 6 clinical experiences with most being based at Kingsford Legal Centre. There are 5 clinic options at Newcastle, 4 at La Trobe and 4 at Monash. This proliferation of clinics has significant potential to enhance community engagement on the part of law schools if the insights and opportunities provided by clinics are effectively utilised.

This growing interest in clinical teaching in law may overstate the state of health of the Australian clinical movement. There is still a lack of ‘clinical fluency’ amongst Australian law schools. The practice-related experiences of clinical academics are not always effectively utilised across the teaching and research endeavours of law schools. The demands on clinical programs are diverse and complex such that it will not be possible to satisfy them all. Promotion of community engagement requires tailoring the clinic to this purpose, amongst others. The next section of this paper considers the range of clinical models and the roles they may play in promoting community engagement as well as student learning.

**Different models of clinic**

The definition of clinical legal education outlined earlier includes simulations and activities that do not involve direct work with real clients provided there is an emphasis on structured supervision and reflection. While real client work is the key model associated with community engagement, there can be engagement dimensions in simulation-based activities (for example, practitioners judging skills-development tasks such as moots) and others forms of integration of clinical insights into classroom-based learning (involving efforts to link with clients, professionals, various decision-makers).

The design of activities and processes that foster both student learning and community engagement will depend most importantly on clearly articulating what students are expected to learn from their involvement and what benefits are meant to flow to communities. Once these matters are clear, models and processes can be selected to suit both the outcomes and the resources available. The following clinical models may be able to contribute to such student learning and community engagement:

◊ **Simulations** involve students acting in role, generally as a lawyer although other roles such as that of the client, witness, decision-maker or policy-maker can be usefully played out. Simulations should play a key role in preparing students for subsequent work with real clients. While traditionally focussed on mooting and advocacy, simulations are now being used more broadly in Australian law schools. Links can be promoted through involving the practising profession and judiciary in simulations.

◊ **Externships** place students with an individual or other entity outside the faculty providing the student with a range of experiences. Along with the extended 5-

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5 year articles of clerkship model that was the most common avenue to legal practice in Australia until the 1960s, external placements have a long history in Australia but have often not been characterised as clinical education.  

◊ **Agency clinics** place students with an external agency where supervision is provided by someone employed by the law school. The supervisor may be an academic or someone engaged specifically as a clinic student supervisor. These are also known, perhaps inaccurately, as ‘hybrid clinics.’ Another title is ‘grafted clinic.’ This model has the potential to foster clinical partnerships with a range of agencies without the need for the law school to invest in substantial infrastructure in establishing its own clinic site.

◊ **Generalist in-house clinics** involve students in advising actual clients in relation to ‘real’ problems involving a wide range of legal issues. This remains a prominent clinic model in Australia and a key for engagement with local client communities.

◊ **Specialist in-house clinics** enable contributions to be made to specific communities. The opportunities to engage with particular communities are illustrated by the range of clinics now operated by Australian law schools in areas including alternative dispute resolution, criminal justice, employment law, environmental law, family law, refugee law and supporting victims of sexual assault.

◊ **Taskforce clinics.** These involve students taking on a different role, that of a researcher and evaluator rather than the advocate role that characterises much real client clinic work. This is a model that is well suited to fostering links with government agencies.

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27 Giddings, above, note 3.
32 Evans, above, note 20.
Community education clinics, often referred to as Street Law programs, represent a key clinical model for promoting engagement with the general public and fostering partnerships with government agencies and profession bodies. Having developed in the United States of America in the early-1970s and South Africa in 1985, these sorts of programs have become increasingly prominent through Asia, Central and Eastern Europe and in England. While Street Law has not yet become a significant feature of the Australian clinical landscape, this prospect is considered in further detail later in this chapter.

Clinics will operate more effectively with the setting of clear objectives, including community engagement objectives, as well as an understanding of which model or combination of models might best suit achievement of those objectives. Stuckey et al emphasise the need for clinic courses to focus on clear and explicit learning objectives, focussing 'on those educational objectives that can be achieved most effectively and efficiently through experiential education'. In this regard, they refer particularly to the value of clinic in helping students to adjust to their roles as professionals, become better legal problem-solvers, develop interpersonal and professional skills and learn how to learn from experience.

Clinics Linking With Different Law School Communities
This section uses examples from Australian clinical programs to demonstrate ways in which clinics can contribute to connecting law schools to the range of communities they serve.

Students
Law students have often been closely involved in the establishment and operation of Australian community legal centres. For example, strong links existed in the 1970s between Fitzroy Legal Service and students from Melbourne University Law School. University of New South Wales (UNSW) Law School staff and students were heavily involved in Redfern Legal Centre and the Australian Legal Workers Group. University of Western Australia Law School students were involved in the Parkways Legal Service and University of Queensland law students were central to the establishment of the Student Legal Service which became the Caxton Street Legal Centre.

Students played a key role in the establishment in 1975 of Australia’s first clinical program, at Monash Law School. Simon Smith, the founding co-ordinator of Springvale Legal Service (SLS) and Australia’s first clinic-academic, traces the origins of the program to the establishment in 1971 of the Monash Student Legal Referral Service, a telephone referral service run by law student volunteers at the premises of

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38 Ibid, 169-173
the Melbourne Citizens Advice Bureau. The Referral Service was not part of the Monash curriculum and was not faculty-approved. Students were not formally prepared for their role nor was there any regulation of the academic advisors. Early in 1972, the referral service began running afternoon sessions at the Springvale Community Aid and Advice Bureau with support from bureau staff. Smith notes that student frustration with the limited nature of referral work and the example provided by the establishment of the Fitzroy Legal Service in December 1972, contributed to SLS being established in February 1973.

The La Trobe University clinical program can be traced to the 1974 establishment of the La Trobe Legal Service by staff from the Legal Studies Department. By 1977, “it was clear that the time was ripe to begin training “para-legal” personnel for work in the service.” A clinical course was established by Adrian Evans, then a solicitor at the La Trobe SRC Legal Service with twelve students placed with the legal service as well as participating in seminars. In 1978, the La Trobe Legal Studies Department also employed a lecturer in Legal Aid with responsibility for establishing the West Heidelberg Community Legal Service (WHCLS) at the local West Heidelberg Community Centre which became the second placement site for the La Trobe Legal Studies students.

The depth of student support for the UNSW clinical program at Kingsford Legal Centre (KLC) is well demonstrated by the response to the possible closure of Kingsford Legal Centre in the late-1990s. John Godwin, a KLC lawyer at the time, recalls being ‘genuinely surprised at the level of support from students.’ Students from the UNSW Law Society organised a walkathon, with more than 200 students and staff participating in a walk from the University to Coogee Beach and back. The walkathon generated very substantial community publicity and raised $17,000 for KLC. It is unlikely that other activities of the Law School would have generated such strong levels of student support.

These examples suggest that students often highly value the opportunity to engage directly in the delivery of legal services. They also indicate that supervision and support to make such engagement as productive as possible for all concerned.

Clinics have the potential to be particularly helpful to those law students who do not have family and social connections with the legal profession and face challenges in making that first step towards the practise of law. Clinics also have an important contribution to make in efforts to prevent students disengaging from their law

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41 Gerry Nash, ‘Clinical Education in Australia’ Council on Legal Education for Professional Responsibility, Vol. XII, No. 1, (1979) 6
42 Smith, above, note 40.
43 Ibid.
44 Adrian Evans, ‘Para-legal Training at La Trobe University’ (1978) 3 (2) Legal Service Bulletin 65.
45 Ibid.
46 Mary Anne Noone, ‘Draft History of Clinical Legal Education in Legal Studies Department’ (undated).
48 Ibid.
49 Ibid.
studies. There is growing evidence of declining student attendance in law classes and concerns at the over-reliance on teaching methods such as lecturing, which promotes passive learning, and assessment methods such as exams, which promote surface learning. Clinical programs can promote more active student engagement and clinical academics at both UNSW and Griffith have also written about the value of clinic-based learning for indigenous Australian law students.50

Client communities

Several Australian clinical programs have been located at sites designed to enhance the engagement of the university in question with particular communities. In 1980, Neil Rees was involved in developing plans for establishment of the UNSW clinical program. The University was wanting to forge closer links with Randwick Council so it was decided that the clinic would be within that municipality if the Council could assist with providing premises. Following discussions with the Town Clerk and the mayor, a suitable building in Rainbow Street, Kingsford was located and the clinic site became known as Kingsford Legal Centre.51

The development of the Southern Communities Advocacy Legal and Education Service (SCALES) began in 1994 with the Murdoch University proposal to establish a new campus at Rockingham in the growth corridor south of the Perth metropolitan area. The university's senior management team supported the development of SCALES which was promoted by the Murdoch Law School as ‘offering a unique and compelling combination of virtues so far as the University is concerned’. The virtues listed were advantages to the University in its southern expansion, a tangible initial commitment to supporting the communities of the southern region, advantages to the University's own enrolment position, links with the profession, quality assurance for graduates, prospects for involvement of students and staff from other disciplines as well as ‘a unique opportunity for the University to make a commitment to institutional Community Service’.52

In the mid-1990s, the Monash clinical program approached the South East Centre Against Sexual Assault [SECASA] to develop a clinic addressing the issues faced by victims of sexual assault.53 The issues facing this client group tend to be complex and require a multi-disciplinary response. Having observed similar clinics overseas, Adrian Evans anticipated benefits for both students and SECASA clients while the motivation of SECASA staff to participate came from their serious concerns with the poor quality of services provided to their clients by private legal practitioners.54 Having originally been offered as a volunteer service, this program is now offered for

52 Ralph Simmonds, Memorandum to Chris Shanahan, entitled ‘Statement of Value of the Community Legal Centre (SCALES) to the University’, 26 April 1995, 1.
53 Evans, above, note 20.
academic credit for students who have completed the Professional Practice clinic course.\textsuperscript{55}

In early 1990, the Queensland Association of Independent Legal Services (QAILS) received a small grant from the Grants Fund of the Queensland Law Society to explore the development of a clinical legal education program in Queensland.\textsuperscript{56} A Committee with membership from 4 law schools (Bond, Griffith, Queensland University of Technology and University of Queensland), community legal centres, the Queensland Law Society and law students was charged with investigating 'both the desirability and feasibility of introducing a Clinical Legal Education programme into Queensland'.\textsuperscript{57} The program proposed by the committee was strongly focussed on community service\textsuperscript{58}, calling for the establishment of a CLC-style service in the Logan City area 'in recognition of the high unmet need for community legal services in this area'. The Committee also noted that there was a 'natural tension between student education and service delivery'.\textsuperscript{59} Ultimately, the combined clinical program did not eventuate.

Arrangements with non-government organisations have also enabled law schools to develop links with a range of client communities. Externship arrangements are a key clinical model for such arrangements. The law schools at the Australian National University, UNSW and Monash have developed a program aimed at improving the quality of professional support for lawyers in Native Title Representative Bodies through the placement of students.\textsuperscript{60} The pool of externship sites utilised by Sydney Law School includes Amnesty International, Austcare, Climate Action Network Australia and the Uniya Jesuit Social Justice Centre.\textsuperscript{61} Of course, it might represent a challenge for regional law schools to maintain strong relationships with such a range of city-based agencies.

\textit{The Legal Profession}

Much has changed since the New South Wales Law Society expressed serious reservations regarding the establishment of the Kingsford Legal Centre. The Law Society expressed concerns regarding the use of unqualified people and in relation to advertising of the service. Neil Rees found himself 'at 30 years of age sitting down negotiating with the President and Secretary of the Law Society about the opening of Kingsford and what type of practising certificate they were prepared to give me.'\textsuperscript{62} The Law Society ultimately agreed to permit the opening of the clinic after several months of negotiation.\textsuperscript{63} Subsequently, the Sydney legal profession played a very important role in Kingsford Legal Centre overcoming the threat of closure in the late 1990s. The contributions of Freehills (through a secondment program initiated in 1992), Henry Davis York and Allens, Arthur Robinson\textsuperscript{64} were particularly significant.

\textsuperscript{55} Ibid, 55.
\textsuperscript{58} Nine of the 11 proposed program objectives relate to law in action or service. See Chay, above, note 56, 50-52.
\textsuperscript{59} Ibid.
\textsuperscript{60} Kingsford Legal Centre, Clinical Legal Education Guide 2007/8, 7.
\textsuperscript{61} Ibid, 37.
\textsuperscript{62} Neil Rees, personal interview at Newcastle, 4 September 1997.
\textsuperscript{63} Ibid.
\textsuperscript{64} Kingsford Legal Centre Annual Report 2006, 21.
Other firms have also made important ongoing contributions to the casework of KLC, providing staff for regular advice sessions.65

Legal professional support and involvement was very important to development of the Newcastle clinical program. Financial support from the Solicitors Trust Accounts Fund was very important to the establishment of the clinical program. With interest, the total contribution came to close to $1 million. Receipt of such a substantial grant gave the law school greater credibility within the University. The local legal profession was also important in operationalising the Newcastle vision of a clinical law school. When John Boersig commenced work as founding Director of the Newcastle Legal Centre in late 1994, the Newcastle Law School was engaged in a major effort to co-opt the local profession into supporting the clinic. Unlike in the USA, there was no culture of training students through placements. 'It was a very big thing to forge a relationship with practitioners and ask them to supervise students free of charge.'66 Boersig's extensive local practice experience made it easier to obtain placements for students and his reputation and practice skills were valuable in gaining local professional support.

Community Legal Centres
Australian clinical programs tend to have been and continue to be staffed by people with a strong community legal centre or legal aid background, bringing with them a strong commitment both to delivering casework services to people who would otherwise be unable to access legal processes and to using the law and legal system to achieve community development objectives.67 In a series of interviews, many clinicians involved in early Australian programs have explained that they started their time as student supervisors without having considered the teaching side of the process in great detail. They tended to be more concerned with community service and law reform issues.

Kevin Bell, the solicitor responsible for the La Trobe clinical program from 1981 to 1985 and now a Justice of the Victorian Supreme Court and President of the Victorian Civil and Administrative Tribunal, was driven by client service concerns in the operation of that clinic. 'The educational needs of the students did not figure highly in decisions made about whether a case was picked up or not. The focus was on the needs of the client, what we could do for them with the limited resources we had and whether or not a particular case was worthy of our follow up or personal attention because it had consequences beyond the immediate.'68 Bell also noted the complexity faced by a clinic in balancing '3 competing policy priorities' – casework, community action and legal education.

The Federal Government reinforced the community service focus of Australian clinics through its financial support of clinical courses at Griffith, Monash, Murdoch and UNSW. After funds were provided for a 3-year pilot clinical partnership with Murdoch University in 1996, support was extended to cover 4 clinical programs in 1999 and has continued since.69 Daryl Williams, the Attorney-General responsible for instigating this funding for clinical programs, considered the main purpose of clinical

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65 For recent details, see Kingsford Legal Centre Annual Report 2007, 28 & 35.
66 John Boersig, personal interview at Newcastle, 4 December 2004.
67 Giddings, above, note 3, 38.
68 Kevin Bell, personal interview at Melbourne, 13 September 2002.
69 Giddings above, note 3, 54.
legal education to be community service, describing the added educational outcomes as ‘the icing on the cake’.\textsuperscript{70} Williams referred particularly to the similarities between clinical programs and community legal centres and the ability of clinics to deliver inexpensive legal services to low income members of the community.

\textit{Government agencies}

Clinics have the potential to facilitate law school links with a range of government agencies. Externships are well suited to the involvement of government departments and related agencies. As an example, the University of Sydney Law School places externship students with government-related agencies including the Australian Law Reform Commission, Human Rights and Equal Opportunity Commission, Legal Aid Commission of NSW, NSW Director of Public Prosecution, NSW Ombudsman and the NSW Public Defenders Office.\textsuperscript{71}

Clinic partnerships between law schools and external organisations (particularly statutory authorities) are likely to raise a range of different issues, including confidentiality and privacy concerns. Students may be confined to roles not involving direct responsibility for client cases. La Trobe Law School has operated a clinic with Victoria Legal Aid (VLA) since 1994. Students work at the VLA Preston office, operating a clinic with responsibility for the conduct of client files. They also work with the VLA lawyers on their client files and clerk for them in the duty lawyer service provided at the local Magistrate Courts.\textsuperscript{72} Judith Dickson and Mary Anne Noone have identified a range of ways in which VLA’s role as the major provider of legal aid services for criminal law matters has impacted on the nature of the clinic experience available to students. One VLA staff member expressed concerns regarding the involvement in a VLA-based clinic of a student who was a serving police officer.\textsuperscript{73} Novel issues were raised regarding client confidentiality and conflict of interest as well as the obligations of police officers.

In the late-1980s, the Monash clinical program encountered a series of instances of clients seeking advice regarding summonses issued by a local solicitor, Peter C. Neil, seeking payment of legal fees for work done years earlier. The clients stated that they had previously paid the fees, often as long as 5 years previously. After Simon Smith publicised these claims in the local media, he sent clinic students to various Magistrates Courts to search for claims commenced by Neil. At least 500 such summonses were identified and Springvale Legal Service commenced acting for these clients in defending the claims, seeking to have them struck out as an abuse of process. Smith recalls magistrates being very cautious in their responses to his argument that Neil’s actions amounted to an abuse of process.

Smith also acted for many of these clients in submitting complaints to the Law Institute of Victoria in relation to Neil’s actions as well as preparing a submission, to both the Institute and the Victorian Attorney-General, calling for Neil to be disciplined and for reform of the \textit{Legal Profession Practice Act}. Smith also worked closely with various media outlets, ultimately resulting in the \textit{60 Minutes} television program

\textsuperscript{70} Daryl Williams, personal interview at Brisbane, 28 June 2004.
broadcasting a report on Neil’s actions which Smith credits with having forced the Law Institute into taking action. Amendments were subsequently made to the *Legal Profession Practice Act* introducing the notion of professional standards and including greater prescription of the standards expected of practitioners.74

The Newcastle clinical program developed a very effective working relationship with the then Minister for Police in relation to police accountability issues. It used a range of mechanisms, including strategic work with the media, submissions to government and acting at coronial and other inquiries. Investigative procedures for serious crimes in New South Wales were reformed following the work of the clinic on behalf of the family of Leigh Leigh.75 Work by the centre on behalf of the families of 5 young women who had gone missing in the late-1970s resulted in police establishing a major taskforce to re-investigate the disappearances.76 According to John Boersig, the high profile of the work being done meant the government could not afford to ignore the Centre. “Because we put the hours in and got the results, the Minister was very supportive.”77

Working with government agencies enables clinics to provide students with a broader range of opportunities. Projects designed to influence government policy can enable clinical programs to advocate more effectively and systematically on behalf of client communities.

The Judiciary

Support from the judiciary has been important in the operation of various Australian clinical programs. Placement programs have enabled students to better understand the roles and dynamics of courts and tribunals. They also enable law schools to develop and consolidate their links to the ‘top end of town’, which is a particular issue for more recently established law schools. Since the summer of 2002, the Flinders and Adelaide Law Schools have collaborated in the operation of a legal advice clinic for unrepresented parties involved in litigation in the Minor Civil Claims jurisdiction of the Adelaide Magistrates Court.78 The clinic runs for one day per week throughout the year and students enrolled in the CLE course work at the clinic as their professional placement.

The Western Australian judiciary was instrumental in the development of the specialist criminal law clinic at the University of Western Australia. In 1998, the Chief Justice of Western Australia, David Malcolm approached then UWA Law Dean, Ian Campbell seeking law school involvement in a proposed scheme to have students assist unrepresented criminal appellants. The Unrepresented Criminal Appellants Scheme (UCAS) was subsequently established by the Court, the Law School and the WA Ministry of Justice.79 The 2-year pilot program commenced in February 2000 and was considered a significant success in terms of the services provided to appellants. However, an inability to attract continuing funding from the Ministry of Justice saw the scheme cease at the end of 2002. Chief Justice Malcolm had been a strong supporter of the scheme and expressed bitter disappointment when cessation of the

74 Simon Smith, personal interview at Elwood, 14 September 2002.
75 Watterson et al, above, note 29, 19
76 *Ibid*. See also ‘The Newcastle Legal Centre’, *The Faculty of Law Annual Report 1997*, 12
77 John Boersig, personal interview at Newcastle, 4 December 2004.
79 Malcolm, above, note 29, 110-111.
scheme became likely. Despite this publicly expressed disappointment, this strongly service-focussed clinic at UWA could not be sustained.

The rise in the number of unrepresented litigants appearing before courts may provide the catalyst for Australian clinical programs to follow the United States of America in providing greater opportunities for students to engage in real advocacy work. Advocacy training in Australian law schools has to date been dominated by simulation exercises. Newcastle, Monash, Murdoch, UNSW and Griffith all incorporate student appearance work into their clinical programs. In 1998, Judith Dickson published a comprehensive article arguing in support of clinical legal education students being given a statutory right of audience before Australian courts. Dickson outlined the close student supervision processes used by Australian clinics. She then argued for Australian clinical programs to ‘emphasise the assumption of responsibility by the students for the satisfactory conduct of clients’ files.’ This assumption of responsibility involves students learning and practising the application of legal rules and processes as well as ethical practices.

Untapped Potential - Community Engagement and Street Law
Community education programs, involving activities designed to enhance community understanding of law and legal processes, have the potential to foster community engagement while also providing a valuable clinical experience for law students. These programs, often referred to as Street Law, have become increasingly prominent in the past decade.

David McQuoid-Mason describes Street Law as a program ‘designed to enable law students and others to make people aware of their legal rights and where to obtain assistance. Street Law explains to men or women “on the street” how the law affects them in their daily lives.’ Students can be involved in consulting with a community group, be it a school or some other organisation, and then developing and delivering educational presentations designed to be of interest to members of the particular group. The mock trial, opinion polls, debates and street theatre are amongst the activities that are often used in Street Law programs. Richard Grimes refers to Street Law programs enabling the development of ‘lawyering and transferable skills, notably research, problem solving, communication, drafting and

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84 Ibid, 168.
85 The development of Street Law™ and Street Law Inc. from its emergence at Georgetown University is detailed by Grimes. See Grimes, above, note X, 274. See also Streetlaw.org
88 Ibid, 5.
team work’ along with providing the opportunity for ‘reinforcing learning through
application and reflection’.89

Other learning objectives suited to public legal education programs include
developing the ability of students to conceptualise and implement a project, to work
in a client-focussed manner, to better understand communication processes90 and to
collaborate with other students. Such clinics are also well suited to priming students
for other clinic experiences. Community engagement brings with it the challenge of
managing the expectations generated by a greater awareness of rights as well as the
interest of students in providing individual advice.91

Clinics & pro bono
The past decade has seen increasing Australian government interest in the
development of pro bono legal services.92 Amongst a general diversification of clinic
sites and the emergence of public interest law clinics, pro bono agencies like the
Public Interest Law Clearing Houses in Victoria, New South Wales and Queensland
now host clinics and make extensive use of volunteer contributions from students.
The development of more formalised pro bono contributions has raised issues of the
appropriate links between clinical programs and pro bono. Clinics are an obvious link
between the academy and the practising profession and can consolidate their place
within law schools through the development of effective professional alliances.

Les McCrimmon correctly identifies that while clinic and pro bono are similar, they
are not synonymous and may be concerned with different objectives.93 In 2004, the
National Pro Bono Resource Centre published an Information Paper, Pro Bono and
Clinical Legal Education Programs in Australian Law Schools, which identified a
diverse range of clinical courses and not-for-academic-credit pro bono activities in
Australian law schools. The paper noted that clinical and pro bono programs are
likely to have different goals but described both as ‘vital components of a
comprehensive social justice education at law school’.94 It is clear that there is scope
to strengthen the links between clinic courses and pro bono legal service providers
and attention should be paid to mapping the various possibilities.

Promoting Long Term Collaboration
The Griffith clinical program is used here as a case study of developing and
sustaining long-term clinic collaborations which have fostered community
engagement. Griffith Law School established an agency clinic in 1995, linking with
Caxton Legal Centre, a collaboration which has subsequently expanded with further
links forged in 1999 with the development of a family law specialist clinic with
support from the Federal Attorney-General’s Department.95 Other community links
developed into clinical programs with the establishment of an externship program

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89 Grimes, above, note 36, 276.
90 Grimes states: ‘There is perhaps no better test of understanding than having to explain
something effectively to someone else.’ Grimes, above, note x, 277.
91 Ibid, 283.
92 Jeff Giddings, ‘Contemplating the Future of Clinical Legal Education’ (2008) 17 (1) Griffith
Law Review 1.
Curriculum’ 14 (1) Legal Education Review 53, 57.
95 Giddings & Hook, above, note 30.
and a specialist alternative dispute resolution clinic, both in 1998. The alliance between Griffith and the Dispute Resolution Branch of the Queensland Department of Justice and Attorney-General has now been extended to include a partnership in the delivery of a Graduate Program in Dispute Resolution.

Griffith also established an Innocence Project, based on the model used at New York’s Cardozo Law School, with Nyst Lawyers, a prominent Gold Coast firm of defence lawyers. This program has attracted considerable support from the practising legal profession. A public interest clinic was also established in 2002 with the Queensland Public Interest Law Clearing House, providing a range of services. Further, 2004 saw the introduction of a Refugee Law and Policy Clinic in conjunction with the Refugee and Immigration Legal Service.

Griffith Law School has benefited from taking a long-term strategy to community engagement through its clinical program. This network of community partnerships enables more than 100 students each year to gain academic credit through making structured contributions to a wide range of organisations. Each of the clinical partnerships established has been sustained and provides students with tailored learning opportunities as well as involving the law school in a range of community activities.

There have also been substantial research spin-offs, benefiting the law school as well as the organisations involved. The work of the community legal centres which collaborate with Griffith on clinical programs was important in highlighting the challenges and limitations faced by self-represented litigants, a matter on which Griffith academics completed empirical research commissioned by National Legal Aid. Similarly, clinic-based experiences informed the development of a major study on self-help legal services. Griffith has also convened annual research symposia on dispute resolution issues, with the Dispute Resolution Branch of the Queensland Department of Justice and Attorney-General.

**The benefits of clinical integration**

Clinical teaching methods and insights can be constructively integrated into classroom-based courses. Chalk & talk teaching can include references to clinics and can involve current or former clinicians who bring their clinic insights with them. Integration emphasises the client focus so important to both clinical learning and legal practice. The law and legal processes can be examined, analysed and critiqued with the client’s concerns and interests in mind. How this can best be done depends on teaching objectives and resource availability.

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96 Giddings, above, notes 23 & 28.
98 Rosemary Hunter, Jeff Giddings, and April Chrzanowski, 2003, ‘Legal Aid and Self-Representation in the Family Court of Australia’, Socio-Legal Research Centre, Griffith University.
Integrative approaches are likely to be most effective where they include real client work building on simulations and class-based discussions. Real client work provides unrivalled opportunities for students to learn about how to deal with the uncertain, dynamic nature of the person-to-person contacts that characterise law-related professional practice. Real client clinic work enables students to interact in relatively unstructured situations involving clients, supervisors, witnesses, bureaucrats and other professionals.

Brief simulations or short field placements may be a useful primer for more intense clinical experiences during the rest of their law studies. Such an approach has operated since 1998 at UNSW in the Law, Lawyers and Society subject. First-year UNSW law students (around 400 per year) spend 8-10 hours at Kingsford Legal Centre, each sitting in on an evening client interview session. With increasing student numbers, clinic staff use a range of teaching methods. Some 400 students per year attend an interview session while clinic staff are also involved in lectures, using teaching materials developed from their clinic experiences.

**Conclusion**

Community engagement should be viewed by law schools as an ongoing part of their mission. The examples used in this paper have been designed to demonstrate that a vibrant clinical program has a role to play in achieving such a mission and an ongoing commitment to community service will be important to this. Sustained community links do not come without genuine effort on the part of law school leadership and require ongoing work. It is valuable to clearly identify what the clinic and the law school can bring to those relationships and to appreciate and acknowledge the contributions others can make. Valuable contributions can be made by community and government agencies, the practising profession as well as current students and, importantly, alumni.

The history of Australian clinical legal education shows the success of the early programs – Monash, La Trobe and UNSW – in serving local communities while providing students with a distinctive learning experience. The 1990s saw the development of further programs, most notably at Newcastle, Murdoch and Griffith, which have emphasised the importance of community links. The sustainability of these programs suggests that clinics can provide an effective hub for fostering law school community engagement.

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