CELEBRATING THE DRAKE LEGAL CLINIC
AT 50! DRAKE LAW EXPERIENTIAL
EDUCATION AT 157! 157-50! A PROUD
TRADITION SINCE 1865

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ABSTRACT

Drake Law has been among the leaders in experiential legal education from its very founding in 1865. Drake Law’s founder, Iowa Supreme Court Chief Justice Chester Cole, writing in the Western Jurist, eloquently made the case for founding a second law school in Iowa whose education would balance theory and practice—that would embrace both “law in the books” and “law in action.” Most of the nation’s law schools went in a different direction, one that did not value experiential education. But Drake Law has never wavered in its commitment to experiential education, which began 157 years ago with practice observations of trial and legislative proceedings and role-play simulations. Externships became a third component in 1950; and the in-house legal clinic became the fourth component in 1971. Because experiential education had been a core feature for its first hundred years, an in-house legal clinic at Drake Law was evolutionary, a major but incremental step—and it was no surprise to find Drake Law in the forefront of law schools in 1971 that pioneered the in-house legal clinic program. With full-time faculty lawyers who supervised upper-level student attorneys in their representation of actual clients, it was the client responsibility taken on by the student attorneys that made this a transformative learning experience. The Drake Legal Clinic has provided a high-quality student

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attorney educational experience for several thousand Drake Law students, who have delivered quality legal services to tens of thousands of low-income clients in both civil and criminal cases. Its founder, Professor Daniel Power, rightfully claimed it was the “crown jewel” of Drake Law’s experiential education, and it still is.

While the Drake Legal Clinic is the crown jewel, it is important not to overlook the other precious jewels in the Drake Law experiential education. As Drake Law was developing the full potential of its legal clinic over the past 50 years, it continued to develop and expand the other three key components of its path breaking experiential education: practice observations, simulations, and externships. The practice observation and simulations were the featured experiential education at the founding of Cole’s law school. Simulations have always been a strength of Drake Law, as reflected in our student’s outstanding performances in competitions. Drake Law students have won national championships in National Moot Court, ABA Arbitration, ABA Client Counseling, and ABA Negotiations. Beginning in 1950 Drake Law was among the early leaders to offer externships, initially in the pioneering legal aid setting, but since expanded to 30 externships that capitalize on the variety of legal settings that Des Moines affords as the capital and largest city in Iowa. Drake Law’s strongest claim for experiential legal education innovation is in practice observation, especially in that most democratic of institutions, the jury trial. There Drake’s national leadership has come full circle. Practice observation was a pioneering educational experience unique to Drake Law in 1875, when Chief Justice Cole would take his students to the Polk County courthouse to observe a morning or afternoon of trial. It is still pioneering and unique to Drake Law in 2022; now in the form of week-long, comprehensive programming, the First Year Trial Practicum has been integrated into the foundational 1L year. For the past 25 years, state and federal courts have conducted an actual jury trial at the Smith Law Center on campus, from jury selection to verdict, and the Law School adjourns an entire week of 1L classes so every first-year student can observe the trial in its entirety and all of the practice panels, small group discussions, and attorney, judge, and juror debriefings. In sum, there is good reason for all those associated with Drake Law—graduates, students, faculty, and staff, to be very proud of the experiential legal education that Drake has provided and innovated over 157 years!

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I. AN OVERVIEW OF EXPERIENTIAL LEGAL EDUCATION AT DRAKE LAW

As Charles Blanchard’s History of Drake University explains, Drake University Law School (Drake Law) “is older than Drake University.”1 Drake Law traces its roots to the “Iowa Law School,” which was organized in 1865 in Des Moines, by Iowa Supreme Court Chief Justice Chester C. Cole and Justice George G. Wright.2 Blanchard and Chief Justice Cole’s historical accounts go into more detail, and explain that both of Iowa’s law schools, the University of Iowa College of Law and Drake Law, have ties to the Iowa Law School.3 In 1875, after serving as a lecturer in the law department at the University of Iowa, Chief Justice Cole returned to Des Moines to organize the “Iowa College of Law.”4 Chief Justice Cole wrote an article, by the same name, in the law journal, The Western Jurist, explaining his purpose in doing so.5 Although initially affiliated with Simpson College, it affiliated with Drake University upon its founding in 1881.6 Chief Justice Cole is considered both the “real founder of the Iowa College of Law” and the “Father” of Drake Law.7

2. Id.
3. The Iowa College of Law, 9 W. JURIST 451 (1875) [hereinafter W. JURIST]. In 1868, despite significant misgivings, Chief Justice Cole and Justice Wright “assent[ed] to the transfer” of the law school to the University of Iowa, “making it a department of the University.” Id. at 451–52. In 1875, upon conclusion of his contract as a lecturer at the University, Chief Justice Cole returned to Des Moines to start “The Iowa College of Law” as a department of Simpson College. BLANCHARD, supra note 1, at 93. Its tie to the Iowa Law School makes Drake Law one of the 25 oldest law schools in the United States. DRAKE UNIV. L. SCH., BLUEPRINT OF THE DRAKE UNIVERSITY LAW SCHOOL 8 (1956) [hereinafter BLUEPRINT]; List of Law Schools in the United States, WIKIPEDIA, https://en.wikipedia.org/wiki/List_of_law_schools_in_the_United_States#For-profit_schools [https://perma.cc/Z4AJ-E65P]; see BLANCHARD, supra note 1, at 93.
5. See generally id.
6. BLANCHARD, supra note 1, at 93.
7. Id. at 95.
In Chief Justice Cole’s *Iowa College of Law* article, he makes clear that his commitment to experiential legal education—a balance of theory and practice—was the very reason for the founding of the Iowa College of Law, to whom Drake Law directly traces its roots. Experiential legal education has been central to the mission of Drake Law—for every one of its 157 years. This historic and longstanding commitment to experiential education has cast Drake Law in a leadership role because history tells us it was among a small number of law schools that maintained a lonely vigil in their commitment to the practice side of the learning equation.

The law school world typically defines experiential education to include three components or models: simulations, externships or field placements, and in-house clinics. There is a fourth component or model that is a regular feature of the experiential education of post-graduate medical students—the observation of physicians (often surgeons) treating or operating upon patients, followed by commentary and critique by faculty observers. This observation-faculty critique component (practice observation) was a prominent feature of experiential education from the inception of the Iowa Law School in 1865 and again with the founding of the Iowa College of Law in 1875. Although largely neglected by other law schools, the practice observation form of experiential education was a central feature of the Drake Law education from its founding in 1881 until 1950. After a hiatus of nearly 50 years, Drake Law restored its practice observation model in 1998 when it established the First Year Trial Practicum (FYTP), a week-long observation of an actual jury trial by the entire 1L class—experiential education which quickly became a highlight of the

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students' 1L year. For the past 25 years, because of the FYTP Drake Law students have had a full immersion in experiential education in their 1L year, and myriad opportunities for experiential education in their 2L and 3L years. This Article will describe the comprehensive, four-prong experiential education programming Drake Law students receive.

The practice observation-simulation duo led the way for the first 70 years of experiential education at Drake Law. In 1950 experiential education was expanded with the addition of a client representation component as an externship at Polk County Legal Aid. In 1971, Drake Law made a much larger commitment to client representation by opening its own “in-house” legal clinic. The in-house clinical component of Drake Law’s experiential education that we celebrated in 2021 at year 50 catapulted Drake Law’s experiential education from really good to outstanding. In 1987, with the opening of the Neal & Bea Smith Law Center (Smith Center) building, Drake Law clinical students could practice in a truly professional setting with state of the art technology in support. From that date on, Drake Legal

15. See id.; infra Part VI.B.
16. See supra p. 5 (describing simulations, externships or field placements, in-house clinics, and observation–faculty critique). Since 1998 the FYTP has reinvigorated the practice observation model in Drake Law students’ 1L year, and, as a consequence, Drake Law has been able to fully integrate experiential education throughout all three years of law school. See infra Parts IV–VI.
17. Externships or field placements, where the law student is supervised typically by a local, state, or federal government attorney, are often denominated as internships in current law school catalogs, including the Drake Law catalog. ASS’N AM. L. SCHS., supra note 11, at 8; Internships, DRAKE UNIV. L. SCH., https://www.dral.be.edu/law/future/academics/jd/intern/ [https://perma.cc/UJP3-N5LP]. Since a law school faculty member has a monitoring role, the field experience has a hybrid quality to it; however, the heavy lifting is done by the field supervisor—which would seem to make the term “externship” a more accurate characterization than “internship.” Id. Because this Author has viewed the terms as interchangeable, the term externship has been used when referring to this form of experiential education generally and in its earlier years and the term internship has been used more often when referring to current Drake Law field placement offerings. I cannot promise I have always been consistent in this dichotomy.
19. Drake Recognizes Integrity, Service of Neal and Bea Smith, DEDICATION TO JUST., 1987, at 3, 3 [hereinafter Service of Neal and Bea Smith]; see also David S. Walker,
Clinic’s founding Director Dan Power’s “promo” that the legal clinic was the “crown jewel” of Drake Law’s experiential education was a claim that rang true. The client representation and participation in the student attorney experience took experiential education at Drake Law to a new plateau. While the addition of an in-house legal clinic was a revolutionary step for much of the law school world, the addition of a legal clinic at Drake Law in 1971 was incremental—a natural outgrowth of its historic, longstanding experiential education commitment.

To be true to Drake Law’s historic mission, our celebration of the in-house legal clinic must recognize the synergy and complement that each of the other three components of Drake Law’s experiential education contributes. When all four are combined, Drake Law may justifiably claim recognition for being among the legal academy’s experiential education leadership. Today, experiential education and its clinical component are a part of the curriculum at all law schools and are increasingly central to the mission of many. But the law school world’s commitment to experiential education is of relatively recent vintage. I came to Drake Law in 1976 and, during my early years, the faculty hesitated to tell the world of the school’s longstanding commitment to experiential education. That hesitation was understandable because, for most of the first 100 years of legal education, such a commitment was the distinct minority view within the academy. But it is not too late in 2022 to tell and celebrate that story! It is to Drake Law’s great credit that it remained steadfast in its belief that its balance of theory and practice was in the best interests of its students, their future clients, and the public interest. Bravo! Bravissimo, Drake Law, for tenaciously holding onto its convictions despite substantial headwinds in the academy!

It is pleasing today to see that Drake Law’s experiential education, and especially its clinical programs, are front and center in its student recruitment brochures, in hard copy and online. Although Drake Law has

_Dedication to Congressman Neal Smith, 61 Drake L. Rev. 937, 940 n.27 (2013) [hereinafter Dedication to Congressman Neal Smith]._

_20. See infra Part VI.A.1._

_21. Nied & Quirk, supra note 18, at 8._


_23. Id. at 552–55._

_24. The current Drake Law web page welcomes “Future Students” with the following message:
been confident and proud of its path-breaking commitment to experiential legal education, as noted above, it cannot be denied that there have been times when it hesitated to tout that commitment out of fear it would be viewed merely as “the practical law school” and out of step with the mainstream law school world. With guidance and pressure from the American Bar Association (ABA) and the Association of American Law Schools (AALS), a nudge from Congressional funding, and growing student enthusiasm and demands, the mainstream law school world has come closer to Drake Law.\footnote{Joy, supra note 22, at 567–80; ASS'N AM. L. SCHS., supra note 11, at 1.} It is appropriate that Drake Law be recognized for its experiential education leadership and innovation in this its 50th year of clinical legal education.

II. WHEN LAWYER EDUCATION WENT FROM APPRENTICESHIP TO THE UNIVERSITY, IT UNFORTUNATELY LEFT EXPERIENTIAL EDUCATION BEHIND

Before we examine Drake Law’s historic commitment to experiential education, a national context is required. One of the highly respected leaders in clinical legal education, Washington University Professor Peter Joy,\footnote{Professor Peter A. Joy, AM. L. INST., https://www.ali.org/members/member/207804/ [https://perma.cc/38E6-V4KU].} has provided that context in his definitive article, Uneasy History of Experiential Education in U.S. Law Schools.\footnote{See generally Joy, supra note 22.} By the middle of the nineteenth century it was widely recognized that the apprenticeship path to becoming a lawyer had many shortcomings in terms of legal education.\footnote{Id. at 552.} As a result, even as the

Drake Law School provides a different kind of legal education. With an excellent foundation in legal theory, our students roll up their sleeves and put theory into action. Our state-of-the-art Legal Clinic includes opportunities in Wrongful Convictions, Immigration Law, Children’s Rights, and more. The First-Year Trial Practicum is a unique opportunity for students to view an actual state or federal trial from start to finish. As the only law school in the capital city of Des Moines, our students have unique opportunities to gain experience in government, business, state and federal courts, the legal sector, and more.

apprenticeship alternative continued, law as a course of study began to be offered at universities, including in Iowa, around 1870.29 In 1873, ever influential Harvard Law School not only "advanced the casebook method as the structure for learning law, [but] also certainly signaled a shift in who taught law by redefining the qualifications needed to become a law teacher."30 In a quote startling for its candor, legendary Harvard Law Dean Christopher Langdell described the new direction legal education would take: "What qualifies a person, therefore, to teach law, is not experience in the work of a lawyer's office, not experience in dealing with men, not experience in the trial or argument of cases, not experience, in short, in using law, but experience in learning law."31

Professor Joy proceeds to lay out in considerable detail an indictment of the law school world as a whole for not merely a "historical de-emphasis on experiential education" but for having "devalued experiential education" for the better part of its first century or more:

Undoubtedly, both the casebook method, which focuses on analyzing appellate decisions, and law professors, with little or no practice experience, created conditions in which, from the inception of university-based legal education in the late 1800s, law schools devalued experiential education. As a result, law schools did not typically require any experiential education, such as simulation courses, in-house clinical courses, or externships until 2010, which was when the American Bar Association (ABA) began requiring law schools to provide each law student with minimal experiential education of at least one credit.32

Professor Joy reports that it was not until 1950 that a distinct minority of law schools began to provide an externship with a legal aid program as an option for a limited number of students.33 The in-house legal clinic stepped onto the stage in the 1970s, but it also was offered by a minority of law schools.34 Over the past 50 years, that minority has increased to a majority.35

29. Id.; Blanchard, supra note 1, at 93–94.
33. Id. at 562–63.
34. See id. at 565–67.
35. See id. at 580–83.
Even with the current experiential education requirement of one or more courses totaling at least six credit hours, which was adopted [by the ABA] in 2014, legal education is distinct from other types of professional education that typically requires one quarter to one half of required credits through experiential education.36

The ABA and the AALS, through their accreditation standards and processes, and Congress, through its financial assistance, eventually came to play important roles in encouraging and pressing law schools to embrace experiential education in all its aspects, including the evolution which produced the in-house legal clinic model of experiential education.

Drake Law’s experiential education history is a story of which it can and should be rightfully proud, but it is a story that few people know. It was understandable that Drake Law worried it would work to its disadvantage to promote the education it provided was different from “the mainstream.” Drake Law worried it would have to be in defensive posture about answering questions like: “Can you name one top 10 law school that makes a large commitment to experiential education?” As a consequence, Drake Law faculty and admissions personnel would quietly “make the case” for the Drake Law model to applicants. Thank goodness we were greatly aided in our recruitment by members of the Iowa Bar, Judiciary, and our Drake Law alumni who clearly valued the balanced legal education they received, including its “practical education” component. But it has only been in recent years, when the pendulum has finally swung in favor of experiential education in law schools, that Drake Law’s promotional materials forthrightly proclaim our commitment to “law in action” as well as “law in the books.”37

III. CHIEF JUSTICE CHESTER COLE, VISIONARY & LEADER, AND THE DRAKE LAW EXPERIENTIAL EDUCATION MODEL

As noted above, there are 16 years of Drake Law history, 1865–1881, which preceded the founding of Drake University in Des Moines.38 Iowa was

36. Id. at 555.
37. Roscoe Pound, who served as Dean of the University of Nebraska College of Law and thereafter at Harvard Law School, popularized these terms in a famous article. See generally Roscoe Pound, Law in Books and Law in Action, 44 AM. L. REV. 12 (1910).
38. See supra Part I; BLANCHARD, supra note 1, at 93–94.
still a frontier as it had only become a state in 1846.\textsuperscript{39} Des Moines, a new city after being destroyed by a flood in 1851,\textsuperscript{40} became the State’s second capital in 1857. There was one constant influential figure throughout the early history of Drake Law—Iowa Supreme Court Chief Justice Chester Cole, who was, and still is, widely recognized as the “father” or “the real founder of the Drake Law School,” and his unwavering commitment to a legal education which valued practice experience.\textsuperscript{41} Chief Justice Cole’s personal legal education can be characterized as a hybrid model, as he apprenticed for two years in a law office in Oxford, New York before studying law at Harvard Law School for one year.\textsuperscript{42} After graduating from Harvard Law School in 1848 the future Chief Justice Cole moved to Kentucky where he developed an active and wide-ranging practice.\textsuperscript{43} Chief Justice Cole had a distinguished career on the court, including service as its Chief Justice from 1870–1876. He served on the court for a dozen years before returning to private practice in 1876.\textsuperscript{44}

The twists and turns of the path from the Iowa Law School founded in 1865 to Drake Law in 1881 have been told above.\textsuperscript{45} But it was in rebirthing the law school in Des Moines in 1875 that Chief Justice Cole, writing in The Western Jurist, fully articulated the educational philosophy that has been Drake Law’s North Star, guiding its mission for more than a century and a half.\textsuperscript{46} In The Western Jurist, Chief Justice Cole explained “[w]ithout any

\textsuperscript{39} Iowa, HIST., https://www.history.com/topics/us-states/iowa [https://perma.cc/6ZTD-7DDQ].

\textsuperscript{40} John Ely Briggs, The Flood of 1851, PALIMPSEST, June 1934, at 6, 6.

\textsuperscript{41} David S. Walker, Remembering the Dedication of Cole Hall and the Man for Whom it Was Named, 67 Drake L. Rev. 217, 220 (2019) [hereinafter Dedication of Cole Hall]; see also BLANCHARD, supra note 1, at 95.

\textsuperscript{42} Dedication of Cole Hall, supra note 41, at 222. When the young Cole attended Harvard the law school offered regular “moot courts” presided over by faculty: “Arguing mock cases was an integral pedagogical component of legal education in the law school’s earliest days. Professors dissected cases to show students the value of technique in argument and analysis. These exercises eventually grew into a faculty-run moot court. . . . By the 1830s, students had formed clubs to discuss and argue cases amongst themselves as had been done at the Inns in Court in England since the beginning of the English legal profession.” History of the Ames Moot Court Competition, HARV. L. SCI., https://hls.harvard.edu/ames-moot-court/history-of-the-ames-moot-court-competition/ [https://perma.cc/W43A-KQ8A].

\textsuperscript{43} Dedication of Cole Hall, supra note 41, at 226; BLANCHARD, supra note 1, at 95.

\textsuperscript{44} Id.

\textsuperscript{45} See supra Part I.

\textsuperscript{46} W. Jurist, supra note 3, at 451–452. The Western Jurist was “a scholarly
purpose to disparage the University or Iowa City,” that the transfer of the
Iowa Law School was a “great mistake, and misfortune to the cause of legal
education...” Chief Justice Cole observed the number of law students at
the University “was less than half the number who had applied for admission
to the school at Des Moines,” but the principal reason for Chief Justice
Cole’s concern was one of educational philosophy: “At Iowa City none of
these advantages [of observation of judicial hearings, trials, and legislative
proceedings] are afforded... for the students of the Law Department are
invited to or required to attend not a single exercise outside of the Law
Department proper.” As a graduate of Harvard Law School, it seems
inconceivable that Chief Justice Cole would not have been aware of—and
almost certainly disagreed with—the change in educational philosophy at
Harvard Law ushered in by Dean Langdell in 1873 that had no place for
experiential education. Although Chief Justice Cole was careful with his
words and criticism, it appears that he feared the University of Iowa was
following Dean Langdell’s Harvard model. The Iowa College of Law that

publications that published articles on law and reported on leading opinions in Iowa and
the nation.” Dedication of Cole Hall, supra note 41, at 223.
47. R. JURIST, supra note 3, at 452.
48. Id.
49. Id. at 453. The 1871 edition of Scientific America had an article entitled, Also
Needed: Practical Education, which describes the University of Iowa as a pioneer of
experiential education in the sciences:

The custom of learning everything by rote, and reciting like a parrot,
has become so embedded in our system of education that it seems almost
impossible to find any explosive sufficiently active to blow it up. It is
probable that we must look to the West. At the University of Iowa,
instead of teaching physics, chemistry, geology and astronomy by oral
recitations and unillustrated lectures, they have established laboratories
and workshops where practical things can be practically learned. The
trustees have resolved to place the elements of physical science at the
very beginning of the course. They do not propose to wait until the pupil,
by droning over dry facts and abstract principles, has acquired a disgust
for every branch of knowledge. They think it wiser to pursue the natural
method, and begin when the mind is anxiously inquiring into the cause of
things.

Mark Fischetti, 50, 100 & 150 Years Ago: December 2021, Sci. Am. (Dec. 1, 2021),
https://www.scientificamerican.com/article/50-100-150-years-ago-december-2021/
[https://perma.cc/94MB-ITTW6]. This Author suspects the University of Iowa law
department was following the lead of Harvard Law School, even if that meant the law
department might have been out of step with the rest of the University.
50. See Joy, supra note 22, at 553.
51. See R. JURIST, supra note 3, at 452-53; Joy, supra note 22, at 553.
Chief Justice Cole founded in 1875 was affiliated with Simpson College, but then moved to the new university in Des Moines, Drake University, upon its founding in 1881.  

Iowa Supreme Court Justice and Drake Law School founder and Dean Chester Cole holds a special—indeed, heralded—place in Iowa’s jurisprudence and its legal education. He served on Drake Law’s faculty from 1881 to 1907 and served as Dean for 15 years, from 1892 to 1907. During his distinguished academic career, Chief Justice Cole maintained a part-time legal practice. An examination of both Chief Justice Cole’s legal education philosophy and Drake Law’s commitment to experiential education will confirm that Cole’s vision and legacy has guided the law school throughout its existence. But before we turn to Chief Justice Cole’s own words on legal education, I would be remiss not to give a shout out to his extraordinary legacy on racial justice and equality—an area of law so very important in the post-Civil War Era and now—in which he showed courage, leadership, and an extraordinary inclusive vision of equality that was nearly a century ahead of the times.

A. The Iowa Supreme Court’s Golden Era of Civil Rights and Chief Justice Cole’s Civil Rights Legacy

Before Chief Justice Cole co-founded Drake Law, he was the leader of the Iowa Supreme Court during its golden era of civil rights, 1868–1875. Four years ago, in 2018, Drake Law, the University of Iowa College of Law, and the Iowa Supreme Court celebrated the sesquicentennial of the landmark Clark v. Board of School Directors decision. In 1868, Clark held racial segregation of public schools violated the Equality Clause of the Iowa Constitution—86 years before the U.S. Supreme Court did so in Brown v. 

52. Dedication of Cole Hall, supra note 41, at 217–18.
53. Id. at 220; see also BLANCHARD, supra note 1, at 95.
54. Dedication of Cole Hall, supra note 41, at 224.
55. Id. at 222–24; BLANCHARD, supra note 1, at 95.
57. 24 Iowa 266, 277 (1868).
Board of Education of Topeka in 1954. Then-Justice Cole was the author of the majority opinion in Clark and the leader of the Iowa Supreme Court that, in addition to the Clark landmark decision, produced four other major civil rights equality rulings: Arabella Mansfield; Coger v. The Northwestern Union Packet Co.; Smith v. Independent School District of Keokuk; and Dove v. Independent School District of Keokuk. Writing in the Clark Symposium issue of the Drake Law Review, this Author sought to synthesize the importance of the Clark decision authored by Chief Justice Cole:

This Article will examine the Clark decision’s powerfully inclusive vision of equality, an equality that envisioned full citizenship for African Americans and people of color, and will confirm Clark’s historical significance. Examination of Clark in the context of the Iowa Supreme Court’s historical civil rights decisions will demonstrate that Clark was NOT an outlier, as the court’s jurisprudence of that era rejected inequality. All five Iowa Supreme Court precedents were courageous and bold, recognizing important civil rights law principles many years—indeed, in Clark and Coger v. Northwestern Union Packet Co. nearly a century—in advance of their eventual adoption and recognition by the United States Supreme Court.

Clark’s national leadership shines as exceptional. Clark, as the Iowa court’s very first construction of the equality clauses of the Iowa constitution, embraced a vision of full citizenship racial equality. Not only was it the first court in the nation to hold racial segregation of public schools unlawful, it was the only nineteenth-century court to hold school segregation unconstitutional. Clark’s national leadership was confirmed, and vindicated, 86 years later by the United States Supreme Court decision in Brown v. Board of Education in 1954. Brown breathed new life into the Fourteenth Amendment, which had long been dormant due to its own grudging jurisprudence, and resuscitated the nation’s promise of equality. Brown and Clark were also alike in that the equality principles each case established went far beyond prohibiting racial segregation of schools.

59. Clark, 24 Iowa at 269.
61. 37 Iowa 145 (1873).
62. 40 Iowa 518 (1875).
63. 41 Iowa 689 (1875).
Clark continues to shine on today as the lead precedent for the Iowa Supreme Court’s independent analysis under the Iowa Constitution’s Bill of Rights. While the Iowa court cannot provide its residents with less protection than required by the federal Constitution, it can provide—and it has provided—its residents with greater protection so long as it does not violate the federal Constitution in doing so.64

David Walker’s research uncovered an unreported opinion of the Kentucky Court of Appeals in 1859, prior to the Civil War and emancipation, that speaks volumes about Chester Cole’s courage and commitment to freedom and equality when he practiced law in that slave state. Cole brought a “freedom suit” on behalf of an African American woman and her children against the defendant who claimed to be their owner. After the trial court ruled against his client, Cole did not give up. He appealed and won. The court of appeals declared the woman and her children “to be free persons of color [and] they are declared to be entitled to all the rights appertaining to such persons.”65

B. Chief Justice Cole’s Vision for Legal Education

In his 1875 Western Jurist article, Chief Justice Cole articulated the legal education philosophy that was to guide Cole’s Law School—the fledgling Iowa College of Law that was to become Drake Law—to this very date: 157 years of experiential education. Chief Justice Cole was a path breaker in recognizing that legal education needed to balance theory and practice. His vision anticipated the great insights of U.S. Supreme Court Justice Oliver Wendell Holmes, Jr., and Dean Roscoe Pound which came many years later. Justice Holmes wrote: “The life of the law has not been logic it has been experience.”66 Pound’s great insight was similar, that “law in the books” must be informed by “law in action.”67

64. Russell E. Lovell, II, Shine On, You Bright Radical Star: Clark v. Board of School Directors (of Muscatine)—The Iowa Supreme Court’s Civil Rights Exceptionalism, 67 Drake L. Rev. 175, 177 (2019) (citations omitted).
67. Pound, supra note 37, at 36.
In his *Western Jurist* article Chief Justice Cole did not advocate for a return to the apprenticeship model. Rather, he contended that a legal education optimally should provide law students with an education that balances theory and practice. Chief Justice Cole could see that situating a law school in Des Moines, the state capital, provided many opportunities for experiential education. Des Moines provided a great laboratory, if you will, as it was where the legislature convened and enacted laws. The Iowa Supreme Court and trial courts were there, as were the U.S. circuit and district courts. Chief Justice Cole had high praise for the quality of the judiciary and lawyers in Des Moines:

The opportunity for *observation* and the gaining of valuable information, not otherwise attainable, is as complete and entire as is possible. Not only so, but the high character of the courts and the great importance of the causes tried in them, call to the courts held in Des Moines, the very ablest lawyers of the nation as well as those of the state, and hence, the benefit of *observation* in those courts is largely in excess of that to be obtained by like *observation* elsewhere.

While much can be learned from observation alone, Chief Justice Cole explained that the law school would build upon the court observation experience by supplementing it with faculty critique and commentary on the case observed, judicial rulings in the case, and on the lawyers’ strategies and performance:

[T]he entire class, in a body, will be taken by the professor of that branch of the law, at least once each week to the court in actual session and will spend such time there as shall be found profitable, consistent with the students’ other duties. The class will be taken to the courts at such times during the week as shall be most conducive to their improvement, having regard to the importance of the cause on trial, the ability and experience of counsel engaged and the stage of the trial. On the day following such attendance upon the courts, the professor will deliver to

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69. *See generally* id.
70. *Id.* at 452–56.
71. *Id.* at 452.
72. *Id.*
73. *Id.* (emphasis added).
the class such lecture and criticisms upon what there occurred as shall add most to the progress of the class.\textsuperscript{74}

Chief Justice Cole pointed out that students attending law school in the capital city would also have the opportunity to observe the legislature in action.\textsuperscript{75} While Chief Justice Cole did not indicate faculty would attend and provide lecture or commentary on the legislative process, similar to their role in observation and critique of judicial proceedings, it seems certain such faculty involvement was contemplated.\textsuperscript{76} Parliamentary Law and a Model Senate were part of the curriculum from the beginning, and both Chief Justice Cole and the dean who succeeded him, Professor E.B. Evans, “well appreciated the service in the legislature that attorneys had the opportunity, and would be called upon, to play.”\textsuperscript{77}

In addition to the practice observation form of experiential education, full-fledged simulation experiences were central to Drake Law’s education. Chief Justice Cole understood hands-on role playing would enable law students to fully grasp both the litigation and legislative processes and the lawyer’s ability to function effectively in both arenas.\textsuperscript{78} Chief Justice Cole described the powerful synergy which can be achieved when practice observation and simulation experiential education are combined:

Under this course of instruction in pleading and practice, experience in moot trials and observations in actual court proceedings, together with the comments and suggestions thereon, it is believed a more thorough acquaintance and practical knowledge of the preparations of pleading and how to try a cause can be obtained than has hitherto been afforded in the same time to students of law in any school or office.\textsuperscript{79}

\begin{itemize}
    \item \textsuperscript{74} \textit{Id.} at 455.
    \item \textsuperscript{75} \textit{Id.} at 452.
    \item \textsuperscript{76} \textit{See id.} at 454–56. The structured observation format that includes faculty commentary and critique could readily be adapted from the courtroom to the legislature. Drake Law instituted a formal legislative practice certificate program that has included these very components (plus internships and course work) since the year 2000 or thereabouts. \textit{See generally Legislative Practice Certificate, \textsc{Drake Univ.:} L. Schl., https://www.drake.edu/law/students/academics/certificate/lp/ [https://perma.cc/YWV2-H6QP].
    \item \textsuperscript{77} \textit{Dedication of Cole Hall, supra} note 41, at 220 n.21; \textsc{W. Jurist, supra} note 3, at 455–56; \textsc{Blanchard, supra} note 1, at 105–06.
    \item \textsuperscript{78} \textit{See W. Jurist, supra} note 3, at 454–56.
    \item \textsuperscript{79} \textit{Id.} at 455.
\end{itemize}
Chief Justice Cole envisioned simulations that would engage the law students in various aspects of the litigation process, including mock trials and moot court appellate proceedings. Sometimes the mock trials were based on cases with notoriety. One such trial in 1904, the “Trial of Aaron Burr,” involved six Drake Law students with Professor E.B. Evans presiding and lasted five days. Blanchard reported that this Drake Law mock trial received national attention: “Favorable editorial comment came from almost every state in the Union, showing that a serious ‘Mock Trial,’ with the setting of a great historical event, arouses human interest.” Two years later, the mock trial featured a case that dealt with the assassination of the Governor of Kentucky following the disputed election of 1899, “one of the most unfortunate and deplorable events in American political history.”

The conduct of the mock trial, Commonwealth of Kentucky v. William S. Taylor, was of such great interest “the general public was invited to attend the sessions of the [p]ractice [c]ourt.” Mock trial and appellate moot court oral advocacy have been core experiential education simulation academic offerings at Drake Law since its founding and continue to be very popular offerings in 2022.

Here is how Chief Justice Cole described plans for a mock legislative session with law students as legislators:

The Senate will hold a session every Saturday afternoon and be governed by Chusing’s Parliamentary Law; the legal propositions will be presented in the form of statutory enactments. . . . To this a member may move an amendment . . . The opportunity for discussion and amendment is afforded every member of the senate, and the sole object will be to embody in the enactment a correct and accurate statement of the law as it exists; and to this end cases will be cited, read and discussed.

80. Id.; see also BLANCHARD, supra note 1, at 105.
81. Id.
82. Id.
83. Id.
85. BLANCHARD, supra note 1, at 105–06.
86. See generally Competition Teams, DRAKE UNIV.: L. SCH., https://www.drake.edu/law/students/activities/teams/ [https://perma.cc/3WSZ-NP4T].
by such members as chose to do so, and the final vote will express the actual views of the class. A record of all its proceedings will be kept, and the yeas and nays will be recorded upon every material amendment and on all final votes upon the passage of a bill.\textsuperscript{87}

Chief Justice Cole provided no citations, no precedents, for the two distinct experiential education models he envisioned in 1875. Given that he was designing a curriculum at the earliest stages of university involvement in the instruction of law, and that America’s leading university had already made curriculum choices taking it (and, as we know, the rest of the law school world) in the opposite direction, it does not seem a stretch to suggest that Chief Justice Cole’s vision of legal education was his very own. Chief Justice Cole’s vision was informed by his own legal educational experience, his extensive practice as a lawyer for 15 years, as a jurist for a decade, and as a legal educator for nearly a decade. His preparatory education for the practice of law was a hybrid—a two-year apprenticeship in a law office followed by one year of formal instruction at Harvard Law School—but that was just the beginning.\textsuperscript{88} By all accounts, Chief Justice Cole had outstanding private practices in Kentucky and Iowa, followed by years of distinguished service and leadership on the Iowa Supreme Court.\textsuperscript{89} By 1875 he of course had been a professor teaching at the Iowa School of Law for 10 years.\textsuperscript{90}

By any measure, Chief Justice Cole’s vision was exceptional within the law school world. There is no doubt that the educational philosophy Chief Justice Cole laid out in 1875 for the reborn Iowa College of Law continued to be the driving force for the law school when it joined Drake University in 1881. Among the articles featured in Drake Law’s 2015 sesquicentennial book are two excerpts from the law school’s historic materials.\textsuperscript{91} One emphasizes the observation of trial and appellate judicial proceedings in Drake Law’s experiential education format;\textsuperscript{92} another is the “Judge’s Charge

\textsuperscript{87} W. JURIST, supra note 3, at 455–56. According to its website, Court TV returned to the air in May 2019, after a 10-year hiatus. Court TV is Back on Air Wednesday, has Live Coverage of Trials Across the U.S., WCPO CINCINNATI (May 9, 2019), https://www.wcpo.com/entertainment/court-tv-is-back-on-air-wednesday-has-live-coverage-of-trials-across-the-u-s [https://perma.cc/25AK-EG9X].

\textsuperscript{88} Dedication of Cole Hall, supra note 41, at 222.

\textsuperscript{89} Id. at 223–24.

\textsuperscript{90} Id. at 217–20.

\textsuperscript{91} A SESQUICENTENNIAL CELEBRATION, supra note 18, at 6.

\textsuperscript{92} Id. at 4 (“Advantages of Location,” excerpt from Drake Law’s “historic recruitment materials”).
to the Jury in the Mock Trial Held in the Chapel of Drake University, December 12, 1884” in an alienation of affections case. As will be developed below, the experiential education Chief Justice Cole envisioned has guided Drake Law faculty and students for 157 years. But for most of those years, certainly for its first century, Drake Law was a notable exception among law schools in affording its students an education that embraced experiential education and balanced theory and practice.

In sum, Chief Justice Cole’s law school experiential education incorporated two models: simulation and practice observation. Indeed, it appears clear from Cole’s Western Jurist article that he viewed practice observation as a necessary precursor to the simulation experience. There is no indication in his Western Jurist article that Chief Justice Cole contemplated externships, field placements, or an in-house legal clinic, but he can hardly be faulted at the very dawning of U.S. legal education for not anticipating these models of experiential education which did not come about until scores of years later.

Today virtually all law schools embrace one of the two experiential education models Chief Justice Cole envisioned: the simulation model of experiential education. In the simulation model law students assume the role of lawyer in a trial or appellate setting, in the legislature, in client counseling or negotiation, or in one of the many other settings that lawyers work—and engage in role play which seeks to be as realistic as possible. Although the practice observation model is a cornerstone of medical school residency programs, outside of Drake Law it has not been embraced by law schools. In 1998 this practice observation model was reinvented at Drake Law and has become the centerpiece of experiential education in the 1L year. Drake Law’s FYTP has been the flagship of the school’s commitment to the practice observation model of experiential education. It has been experienced by every Drake Law 1L student for the past quarter century, yet “Drake is the only American law school where all first-year classes shift to a campus courtroom for a week, enabling students to view an actual state

93. Id. at 6.
94. See W. Jurist, supra note 3, at 455.
95. ASS’N AM. L. SCHS., supra note 11, at 9–10.
96. A SESQUICENTENNIAL CELEBRATION, supra note 18, at 9 (referencing First Year Trial Practicum).
or federal trial.”98 There will be more on this very special Drake contribution to experiential legal education in Part VI.B.

No clearer confirmation of Chief Justice Cole’s huge imprint on Drake Law and Drake University itself is the naming of Cole Hall for him, the first campus classroom building constructed for the study of law and dedicated in his name in 1904.99 Because the man who set Drake Law’s educational compass was a visionary—not only for legal education but also for racial justice—Drake University rededicated Cole Hall in 2018 during the sesquicentennial celebration of the Iowa Supreme Court’s historic civil rights decision in Clark. In each instance, Chief Justice Cole was a path breaker, literally decades ahead of the times.

In sum, Chief Justice Cole founded Drake Law upon the educational philosophy that a legal education which does not provide a substantial experiential component does not adequately prepare its graduates for the practice of law. Drake Law has never deviated from Chief Justice Cole’s vision, consistently resisting the devaluation of experiential education that was the ascendant view of legal education for at least its first century.

IV. DRAKE LAW’S EXPERIENTIAL LEGAL EDUCATION COMMITMENT CONTINUES AFTER CHIEF JUSTICE COLE, 1907–1970

Although the documentary record as to Drake Law’s curriculum in the years after Chief Justice Cole retired, not surprisingly, is sparse, I recall senior Drake Law alumni telling stories of how Dean Martin Tollefson would take Drake Law students down to the courthouse to observe trials in the 1940s. The “practice court” simulation, a trial advocacy courtroom experience, was central to Drake Law’s education and a course required for graduation at least through 1958.100 This was confirmed in the 1956 Blueprint of Drake Law, a bound book published by Drake University as the law faculty’s assessment of the law school and its aspirations for the future.101 The person who for nearly two decades—for 17 years—taught the practice court was a District Court Judge, later Iowa Supreme Court Chief Justice, C. Edwin Moore.102 The Blueprint describes two key components of

98. Id.
99. See Dedication of Cole Hall, supra note 41, at 217–19.
100. Blueprint, supra note 3, at 39.
101. Id.
experiential education that Drake Law required for graduation in 1956: the practice court simulation and a new emerging model, a legal aid externship that was the fore runner to today’s in-house clinical program model.103

The Blueprint described the practice court simulation experience required in the 3L year as follows:

[It] include[d] actual trial preparation and [a] court room experience in the trial of cases. Our [p]ractice [c]ourt course is taught through the combined efforts of a full-time faculty member and Judge C. Edwin Moore of the District Court. Cases are tried in the District Courtroom by the Judge and a moot jury.104

In addition to the Blueprint, this Author was able to interview Drake Clinician in Residence Robert Oberbillig, a 1958 Drake Law graduate, for this Article, and he provided additional helpful detail.105 Oberbillig advised that practice court was a two-semester required course (fall and spring semesters) taught by Chief Justice Moore.106 Every Tuesday and Thursday evening, students would travel to the Polk County Courthouse for class.107 The mock trials were simulations, but “were very realistic.”108 A school for certifying court reporters was based in Des Moines at the time, and arrangements were made so that one of the court reporter students would attend and practice court reporting during the simulated trials.109 Students would engage as attorneys in the trials, and other students would serve as witnesses and jurors, as they continue to do in trial advocacy classes today.110 I have not been able to determine exactly when the practice court was no

103. See A SESQUICENTENNIAL CELEBRATION, supra note 18, at 39–40.
104. For a 1959 photograph of Drake Law students during practice court jury trial in the Polk County Courthouse, see Id. at 13.
106. Id.
107. Id.
108. Id.
109. Id.
longer a required course, but my best estimate would be 1970 or thereabouts.\textsuperscript{111}

Drake Law also required appellate practice simulation experiences. In the 1L year, there was a required appellate experience, complete with researching and writing a brief and presenting an oral argument.\textsuperscript{112} The Blueprint described the oral advocacy component of the experience:

[Students] argue[d] an appeal before a simulated appellate court, consisting of senior law students and practicing lawyers invited to sit on the court. This is again emphasized in the senior year with our Supreme Court Day program in which, after competitive eliminations, four students present a moot appeal before the full bench of the Supreme Court of Iowa.\textsuperscript{113}

Dwight D. Opperman Professor of Law and Dean David Walker observed the Supreme Court Day oral argument experience has been the centerpiece of Drake Law’s annual Supreme Court Week of activities for nearly three quarters of a century:

[Then-Judge Moore is credited with] reviv[ing] the tradition of Supreme Court Day, a time when the Supreme Court of Iowa came to the Law School and senior law students argued moot court cases to the court en banc. Years later, he presided over these Supreme Court Day arguments as Chief Justice with humor, obvious appreciation for the students, and continuing focus on the partnership which can exist among the Bench, the Bar, and the law schools. He announced the “Opinion of the Court,” invariably reached “with great difficulty” and admiration for the students’ demonstration of their advocacy skills.\textsuperscript{114}

\textsuperscript{111} Trial advocacy would continue to be a popular course offering taken by many students, but as an optional course, not a required course. I joined the Drake Law faculty in the fall of 1976, and it is my recollection that the practice court was not a required course at that time. I think it is likely that it was discontinued as a required course offering around 1970, when the law school experienced a dramatic increase in its enrollment; the much larger enrollment would have posed logistical challenges because of the small group supervision simulation instruction requires. Another factor may have been the addition of the in-house clinic optional experience at or about the same time.

\textsuperscript{112} Blueprint, supra note 3, at 39.

\textsuperscript{113} Id.

The 3L students also received “further instruction in appellate procedures by Judge Frederic M. Miller, a former Justice of the Supreme Court of Iowa.” The New York City Bar Association’s National Moot Court Competition originated in 1950, and Drake Law has sponsored two moot court teams annually—the maximum number a law school can enter—ever since. Drake Law students’ record of success over the years has been remarkable, including winning the national championship in 2001, which speaks very favorably of the quality of the experiential appellate advocacy education at Drake Law.

The practice observation of actual trial court proceedings that had been central to Chief Justice Cole’s experiential vision was no longer part of the required Drake Law experiential education experience in 1956. The historical record provides no explanation as to when or why the practice observation of trials was discontinued. There was no mention of the practice observation model in the Blueprint, and Clinician Oberbillig confirmed there was no observation of actual trials at Drake Law from 1956–1958. Oberbillig observed that Dean Leland Forest had a part-time law practice that included some trials. When Dean Forest had a trial or hearing, he would alert students so that, if their schedule permitted, they could attend and some did. Professor Fred Lewis would do the same; however, these were optional and viewed as extracurricular or supplementary, not part of the academic program. This Author submits it appears likely that in 1950, after 70 years, the practice observation was replaced by a new experiential offering—the legal aid externship.

118. Drake’s team of Theodore Simms II, Lw ’01, William Schultz, Lw ’02, and Jeff Link, Lw ’02, won the National Moot Court Championship in 2001. A Sesquicentennial Celebration, supra note 18, at 10. For a more complete picture of Drake Law’s moot court, mock trial, and other lawyering skills “teams,” see infra Part V.B.
119. Interview with Robert Oberbillig, supra note 105.
120. Id.
121. Id.
122. Id. Oberbillig explained that “he worked his way through Drake [Law] and therefore never attended any of these trials or hearings.” Id.
123. Id.
Drake Law’s first externship was with Legal Aid of Polk County. This field placement was not merely a curriculum option or elective, but a requirement of graduation in 1950. It was the result of the “joint efforts of the Law School, the Community Chest, and the Polk County Bar Association.” Des Moines did not have a formal legal aid office until 1949, when the first full-time legal aid attorney was hired. The Blueprint described the externship very favorably:

Our senior law students assist the Legal Aid attorney in this work. The students report to the office according to a schedule and assist the Legal Aid attorney by interviewing clients, research, preparation of cases for trial, assistance in trial, and perform most of the other services which would normally be rendered by an attorney. This, of course, provides the actual experience and responsibility of a law office. It is the finest type of practical experience and has been of immense value to our students and to the School in its public relations. Inasmuch as the students often confer voluntarily with individual members of the faculty as to their cases it enables the faculty to work with the student on a semi-professional basis.

Clinic. Clinician Oberbillig recalls that every 3L student spent a half day at the legal aid office, approximately three times each semester. The students had staggered schedules as the small legal aid office could only accommodate one or two students at the same time. The office “was so small that students used a large janitor’s closet to conduct interviews of clients. Everything was hand-me-down in terms of furnishings: desks, chairs, equipment.” Oberbillig described the elevator of the Royal Union

124. See Blueprint, supra note 3, at 39–40; A Sesquicentennial Celebration, supra note 18, at 7; Bill Morris, Law Students in Clinic Lab, Drake Times-Delphic, Oct. 1950, at 1, 1.
126. See id.
127. Id. at 40.
128. Interview with Robert Oberbillig, supra note 105.
129. Id.
130. Id. It should be noted that federal funding in support of legal aid for the poor did not begin until the mid-to-late 1960s as part of President Lyndon Johnson’s War on Poverty. History of Civil Legal Aid, Nat’l Legal Aid & Def. Ass’n, https://www.nlada.org/tools-technical-assistance/civil-resources/history-civil-legal-aid [https://perma.cc/M7RR-KNDW]. The meager facilities and staffing of Legal Aid in Des Moines was the norm nationwide, not the exception. See id. Many cities much larger than Des Moines had only one full-time legal aid lawyer.
Building which housed the program as “so rickety students wondered if it was going to 'make it' every time they got on.” Oberbillig came away with a strong belief that a substandard physical plant adversely affects (1) the quality of the legal services delivered by any law office; (2) the client’s perception of the quality of the legal services he or she was provided; and (3) the educational experience of law students who are experiencing their first practice experience in a setting not conducive to professionalism.

Given the reality that legal aid had only one lawyer and one staff person, some may be skeptical of the Blueprint's assessment that the legal aid externship was “the finest type of practical experience.” But, given Drake Law's experiential education tradition, it is clear faculty had a very good appreciation of the exceptional educational potential of the client

131. Interview with Robert Oberbillig, supra note 105.

132. I served as a legal aid lawyer from 1971–1976, first with the Legal Services Organization of Indianapolis and then with the Indiana Center on Law & Poverty. I know full well that because legal aid had been so poorly funded and understaffed for so long, our clients were often skeptical of the quality of legal services they were receiving. Without question, a poor-quality physical plant—law office—would contribute to clients’ skepticism.

133. Interview with Robert Oberbillig, supra note 105. Oberbillig recalled he was at legal aid about six times over the course of his 3L year, three times each semester for a half day. Although Oberbillig recalled serving two clients for whom he achieved positive results, his recollection of his legal aid externship educational experience was not as favorable as the faculty's Blueprint assessment: “The students never went to a court room. Never got to observe a court proceeding. Most of the work was on divorce cases. It was not a good educational experience—whether measured in terms of learning practical lawyering skills or in terms of developing a better understanding of social problems and empathy for the poor and marginalized.” Id. Oberbillig continued: “There was no Drake Law faculty supervision of the students; the only supervision Drake Law students received was from one lone attorney, who had a huge caseload that did not permit him to provide the feedback and critique of student performance that is a mainstay of contemporary clinical programs.” Id. Oberbillig’s experience as a student is just one sample, involving only a handful of on-site visits, and may not have been representative. But the criticisms as to uneven supervision were not uncommon of law school externships with short-handed legal aid programs of that era. See Norman L. Reimer, N.Y. State Jud. Inst., Partners in Justice: A Colloquium on Developing Collaborations Among Courts, Law School Clinical Programs and the Practicing Bar: The Role of the Organized Bar in Building Bridges Between Practicing Attorneys and Law Schools: An Essay on the Prospects for Collaboration Between Law Schools and the Bar to Advance Social Justice (May 2005), https://nycourts.gov/IP/partnersinjustice/Role-of-the-Organized-Bar.pdf [https://perma.cc/7F4H-7LAZ] (describing a well-supervised clinical education program in the mid-1970s).
representation-clinical model, including in the externship version of that model. I am confident the faculty knew full well the educational experience could be improved upon, and one wonders whether they had enough firsthand knowledge of the supervision component to make an informed judgment as to the consistency and quality of supervision. One of the leading clinical education histories\textsuperscript{134} confirmed uneven supervision in the legal aid externship model was commonplace at law schools because legal aid was understaffed due to woeful underfunding nationwide prior to the infusion of federal funds during the War on Poverty in the late 1960s: “Student supervision was cited as a ‘major problem,’ and the task of supervision was often delegated to experienced students, who supervised less experienced students. At ten of the twenty-eight law schools with some form of clinical program in 1951, students did not earn any academic credit for their work.”\textsuperscript{135}

Let us examine that last sentence carefully. Do not overlook the fact that the vast majority of law schools had no clinical program in 1951. Of the 28 that did, only 10—10!—awarded academic credit. In contrast, not only did Drake Law offer academic credit for its legal aid externship, but it was also a requirement of graduation. Nationwide, in 1956 Drake Law was one of only five law schools—Creighton, Drake, Northwestern, Ohio State, and Williamette\textsuperscript{136}—to require a legal aid externship experience for graduation.

For all of the shortcomings of the legal aid externship model on the ground and in practice, Drake Law can be rightfully proud of being in the forefront again in the expansion of experiential education to include an externship at Polk County Legal Aid, and, as a result of its experience with the legal aid externship—yes, and all of the growing pains—Drake Law was among the first law schools to commit to an in-house clinical program with full-time tenured faculty in 1971. This Author is confident that most Drake Law graduates of the 1950–1970 era would report that an uneven legal aid externship experience was better than none at all, especially since that experience became the springboard to the top-drawer experiential education that the Drake Legal Clinic provides today.

The \textit{Blueprint} expressed no doubt that Drake Law was among the leaders in experiential legal education nationwide and its overall

\textsuperscript{134} \textit{Reimer, supra} note 133.
\textsuperscript{135} Mohd. Shahan Ulla, \textit{Clinical Legal Education: Role of Lawyers and Jurists in Establishment and Functioning of Clinics}.
\textsuperscript{136} \textit{Reimer, supra} note 133, at 6.
experiential education—the simulation courses and legal aid externships—was “excellent”: “Our Law School has developed an excellent program in [clinical training]. Clinical training is essential to help the student translate [their] classwork into practical application while in school, and to help [the student] adjust to the actual practice of law or related fields upon graduation.” Ninety-one years after its founding in 1865, the faculty clearly recognized Drake Law’s commitment to experiential education was not mainstream, and did not pull any punches in its criticism of its brethren: “Most schools have been notoriously deficient in this area and have been severely criticized by the profession for this reason.”

Looking to the future the faculty renewed its commitment to the “clinical training” through “the Legal Aid program, the Practice Court courses, the Supreme Court Day program, the Appellate Arguments program, and practical instruction in the various course areas by tours and by lectures by [lawyers] who are prominent in these fields.” The legal aid externship, the practice court trial advocacy course, and the 1L appellate arguments program were all courses required for graduation. Such a commitment to experiential education in the 1950–1970 time frame continued to put Drake Law among the national leaders in experiential education. The faculty also urged the building that then housed the law school, Carnegie Hall, be equipped for an on-campus courtroom, which not only would strengthen the instruction in mock trial and moot court but also would facilitate the observation of actual trials and appellate arguments.

137. Blueprint, supra note 3, at 39. It should be noted the Blueprint uses the term clinical training broadly to encompass all models of experiential education, whereas this author refers to “clinical training” as one of the four models of experiential education: the in-house legal clinic where Drake Law student attorneys are supervised by Drake Law professors. Id.
138. Id.
139. Id. at 52.
140. Id. at 48–49, 53.
V. EXPERIENTIAL EDUCATION AT DRAKE LAW AND BEYOND: FINALLY IN THE MAINSTREAM

A. Drake Law’s In-House Legal Clinic: Taking Experiential Education to the Next Plateau, 1971–2021

1. Gideon and the National Legal Services Program Set the Stage

Access to justice nationwide got a huge boost in 1963 with the Supreme Court’s decision in Gideon v. Wainwright.141 Gideon unanimously held that the right of one charged with a crime to have the assistance of counsel for his defense was fundamental under the Sixth Amendment to the U.S. Constitution, and binding on the states by virtue of the Fourteenth Amendment’s Due Process Clause.142 Today, it is hard to imagine that recognition of the right to representation by counsel appointed by the court had not been found essential for a fair trial and due process of law long before 1963. Thus, states were required to provide an attorney to defendants in criminal cases who, because of their indigency, were unable to afford counsel.143 Gideon was implemented by taxpayer support of state public defender programs, with salaried attorneys, and by court-appointed attorneys in private practice, who were compensated at below-market hourly rates and often with a cap on the fee that could be charged.144 Although no similar constitutional right has been held to exist in civil cases, Gideon unquestionably gave momentum to advocates seeking to increase the access poor people had to the legal system by securing legal representation in cases involving civil matters.145 Securing a revenue stream to fund legal services for the poor was always the key issue.146 There was a breakthrough in 1964, with the passage of the Economic Opportunity Act launching President Lyndon B. Johnson’s War on Poverty.147 Federal funds provided by the Office of Economic Opportunity became the principal source of funding

142. Id. at 342–43.
144. See generally id.
146. See id.
legal services in civil cases for low income and indigent people all across the nation.\footnote{148}

Among the legal aid programs receiving federal funds early on was the Legal Aid Society of Polk County.\footnote{149} Those federal funds enabled a dramatic increase in the number of legal aid lawyers and created a professional work setting for them—a development that necessarily redounded to the benefit of Drake Law students in the externship program.\footnote{150} Following a successful private practice career in Omaha that included civil rights work, Robert Oberbillig returned to Des Moines as Executive Director of Legal Aid of Polk County in 1969.\footnote{151} By 1970, under Oberbillig’s leadership, Polk County Legal Aid had 16 full-time attorneys, which made it the largest law firm in Des Moines. True to Oberbillig’s belief about the importance of a quality physical plant and technology, Legal Aid of Polk County provided its lawyers and clients with a professional setting. The idealism generated by the Civil Rights and anti-poverty movements of the 1960s encouraged

\begin{itemize}
\item \footnote{148} Id.
\item \footnote{149} See Impact, IOWA LEGAL AID, https://www.iowalegalaid.org/impact [https://perma.cc/GTN3-PCS5].
\item \footnote{150} See id. Oberbillig recalled that, by 1970, about 20 Drake Law students each semester were assigned to legal aid. Interview with Robert Oberbillig, supra note 105. Each student was required to make a 10-hour minimum weekly commitment; some students became very enthused and would spend as much as 20 hours per week. By 1970 Drake Law was considerably larger than the 28 students in the 1958 graduating class, such that it would have been challenging to provide every Drake Law student with a legal aid externship experience; thus, it is probable that legal aid was no longer a prerequisite to graduation. However, the students continued to earn academic credit.
\end{itemize}
outstanding and idealistic lawyers to choose employment with legal aid programs nationwide. Legal Aid of Polk County was able to recruit such lawyers, including several who went on to exceptional public service careers. U.S. Senator Tom Harkin, U.S. District Court Judge Robert Pratt, and renowned criminal defense lawyer Alfredo Parrish are just a few who come to mind who began their legal careers with Legal Aid of Polk County. Legal Aid of Polk County opened a number of offices, including one at 23rd and Carpenter, which was very convenient for Drake Law students, as it was only a short walk from Carnegie Hall, the main law building at 27th and Carpenter.

During the 1960s there were only a handful of law schools that offered in-house legal clinics with law professors or lawyers who supervised students in their representation of clients. That was about to change. In the late 1960s and early 1970s, the Ford Foundation became an influential factor in the evolution of experiential education. Led by its Vice President, William Pincus, the Ford Foundation funded a new foundation, the Council on Legal Education for Professional Responsibility (CLEPR), whose purpose was to provide grants to law schools to establish legal clinics for the poor. Professors Phillip Schrag and Michael Meltsner observed that the step from legal aid externships to in-house legal clinics occurred because of a convergence of interests. They contend it would be a mistake to conclude

152. Because there were now 16 full-time legal aid attorneys working in a work environment that reflected a professional law office, the students' educational experience was much better than when Oberbillig was a law student. It was now realistic for the attorneys to provide feedback and critique to students. Under the Iowa Supreme Court Student Practice Rule, the students could take on much more responsibility, and even could represent clients in court in civil matters and misdemeanor criminal cases. Oberbillig, in his Legal Aid Director capacity, did exit interviews with each of the students. Consistently, the most important educational experience was interviewing clients and each of the students could be assured of having several interviewing experiences. Because most cases, whether civil or criminal, are resolved through settlement, the opportunity for a student to obtain trial experience was necessarily much more uncertain, but each semester some students would represent clients in court.


154. "In only five law schools, supervising faculty were able to receive teaching credit for their clinical courses." REIMER, supra note 133, at 7 n.37.


156. Id.

157. PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL
it occurred because there was a new widespread consensus among law school faculty supporting experiential pedagogy: "[R]ather, Clinical legal education was born in the social ferment of the 1960s." Professors Schrag and Meltsner pointed out that law school legal clinics made a significant contribution to social justice nationwide through the free legal services they afforded poor people in the vicinity of law schools with such programs: "[H]undreds of thousands of low-income clients have been well served by clinic students." 

Harvard Law School, which had set in motion the trend away from experiential education a century earlier, was among those on the cutting edge with its in-house legal clinic. Like many who eventually became clinical law professors, Professor Gary Bellow began his career providing legal service to the poor, initially in the District of Columbia and later with California Rural Legal Assistance. Bellow joined Harvard Law School’s faculty in 1971. As the founder and faculty director of Harvard Law school’s clinical programs, Professor Bellow was a very influential figure in clinical legal education—described as “one of the founders of modern clinical legal education” in The Harvard Gazette.

The in-house clinic model was seen as addressing the concern about the adequacy of supervision and feedback for law students under the initial legal aid externship model. In 1968 Drake Law Professor Gene Blackburn

EDUCATION 3–10 (Ne. Univ. Press. 1998).

158. Id. at 1.

159. Id. at 313. Citing the 1992 MacCrate Report, the New York Judicial Institute Report described the “win-win” benefits of clinical education:

Clinical courses expose students not only to lawyering skills but also the essential values of the legal profession: provision of competent representation; promotion of justice, fairness, and morality; continuing improvement of the profession; and professional self-development. These professional values are taught and at the same time thousands of clients receive access to justice through clinical programs. In this way, clinical programs meld legal theory with lawyering skills, and students learn lawyering values by providing legal assistance to clients who would otherwise lack access to justice.

REIMER, supra note 133, at 10.


161. Id.

162. Id.
was involved in a pilot project at Drake, supervising 3L students who were providing “consultation on petty criminal and civil matters” to other Drake students. In 1970 Polk County Legal Aid provided the funds to send Professor Blackburn, as Chair of the Drake Law faculty’s Legal Aid Committee, and Robert Oberbillig, then Legal Aid of Polk County’s director, to visit Harvard Law School to check out its new in-house legal aid clinic in operation. The Blackburn-Oberbillig “report” on Harvard Law School’s program was influential in persuading Drake Law to take the next major step in experiential legal education in 1971, starting its own in-house legal clinic with a full-time faculty member in charge.

2. Professor Dan Power, Founder of the Drake Legal Clinic, and Congressman Neal Smith: Partnership for Clinical Legal Education

In the early 1970s, Drake Law began a new era of experiential legal education. Most notably, it added a totally new component to its comprehensive experiential education program—the in-house clinical program. In the fall of 1971 U.S. Department of Justice lawyer Daniel Power, bringing a decade of federal court litigation experience, joined Drake Law’s faculty as a professor and its first Executive Director of Clinical Programs.

Throughout all but two of his years on the faculty, Professor Power served not only as lead clinical professor but also as the Director of Drake’s Legal Clinic from 1971 until 1994. Power’s optimism, warmth, and humor immediately engaged people and set the tone for his student attorneys. He was a passionate and persuasive advocate for clinical legal education. He told generations of law students, “It’s one thing to load the gun, it’s another thing to fire it.” While understanding that doctrine and theory of law are basic to lawyering, Power was unequivocal that the only way to be prepared

164. A SESQUICENTENNIAL CELEBRATION, supra note 18, at 7.
165. Professor Power shepherded the legal clinic for its first quarter century, including the 1987 construction of the Smith Center that houses the legal clinic and its Public Service addition in 1993. See Nied & Quirk, supra note 18, at 8. He also taught evidence and income tax in the traditional classroom setting at Drake Law. All of the legal clinic world benefitted from the close relationship he developed with Congressman Neal Smith, a 1950 Drake Law graduate, who became one of the leading proponents of clinical legal education in Congress. See Dedication to Congressman Neal Smith, supra note 19, at 941–42.
166. Nied & Quirk, supra note 18, at 8.
for the real world is to have practiced in it. 167 Like the legacy that Chief Justice Cole left for experiential education at Drake Law, Professor Power left an indelible imprint on the clinical education component of Drake Law's experiential education. It is fitting that his faculty portrait hangs prominently near one of the main ground floor entrances to the Smith Center, for his programmatic leadership and also for his mentorship of so many Drake Law students. 168

Early on Power developed a shared vision of clinical education with the late Congressman Neal Smith, one of the leaders in Congress who saw a nexus between legal aid for the poor and improving the practical education of law students. 169 Congressman Smith and his wife, Bea, were both 1950 Drake Law graduates and were deeply appreciative of the experiential

167. Id.

168. Two of Drake Law's most distinguished graduates, Mark Bennett and John Jarvey, both of whom have gone on to serve as Federal District Court Judges, have extolled Professor Power's mentorship during their Drake Law student days. Judge Bennett took several of Professor Power's classes and participated in the legal clinic. Judge Bennett called Professor Power "very inspiring, a professor who was totally committed to his students and developed life-long friendships with them." Judge Bennett especially recalled working closely with Professor Power, and the helpful insights he offered on a successful constitutional challenge to a Des Moines nudity ordinance under which a Drake student streaker had been prosecuted. Interview with Mark Bennett, former U.S. Dist. J. N. Dist. Iowa (Nov. 30, 2021). Judge Jarvey gave a huge shout-out to Professor Power in his prepared remarks at his Investiture Ceremony at the Federal Courthouse. John Jarvey, U.S. Dist. J. S. Dist. Iowa, Prepared Remarks during Investiture Ceremony at the Federal Courthouse (Apr. 2007). In a recent interview reflecting upon his retirement, Judge Jarvey again lauded Professor Power's mentorship during the judicial internship program Professor Power supervised during the summer following Judge Jarvey's 2L year and Professor Power's continuing post-graduate support that helped him secure a post-graduate Federal judicial clerkship. Judge Jarvey also recalled how valuable his practical experience in the Drake Legal Clinic proved to be. William Morris, After 34 Years, Retiring U.S. District Judge John Jarvey Still Loves Helping People Solve Problems, DES MOINES REG. (April 2, 2022), https://www.desmoinesregister.com/story/news/crime-and-courts/2022/04/02/retiring-us-judge-john-jarvey-remembers-federal-bench-southern-district-iowa-judicial/7077697001/ [https://perma.cc/4DD6-G2L9].

169. See Service of Neal and Bea Smith, supra note 19, at 3 ("Congressman Smith has been the author of major legislation, including the Wholesome Meat Act; the Farmer-Held Grain Reserve Program; the Anti-Nepotism Law; the Pension and Welfare Protection Act; the Commodities Futures Trading Commission Act of 1974; the Small Business Act of 1976; the Green Thumb Employment Program for the elderly; Student Loan programs; Emergency Health Services; several Student Aid laws; a Life Flight program; and expanded Use of Nurse Practitioners.").
education they had received at Drake.\textsuperscript{170} In collaboration with Professor Power, Congressman Smith authored and sponsored "the Law School Clinical Legal Education Program, which provided grant funding for law schools seeking to establish legal clinics."\textsuperscript{171} As Dean Walker wrote,

Congressman Smith intended law students to obtain experiential legal education so that they would actually be prepared to serve people in their communities, would see and understand the need for the kind of public service to which the legal profession is dedicated, and would appreciate the relationship between their work as attorneys and the rule of law.\textsuperscript{172}

Drake Law’s commitment to an in-house legal clinic preceded the federal funding, but the federal clinical education funding significantly strengthened its clinical program and served as a catalyst for the adoption of clinical programs at many law schools.\textsuperscript{173}

It was very significant that Professor Power, the first Drake Law clinical professor and Clinic Director, was tenured. He also taught federal income tax and evidence in the classroom. Professor Art Ryman, who principally taught property and related courses and briefly served as clinic director, was also tenured. To grant clinical faculty tenure was a rarity in legal education when legal clinics began in the 1970s, and the status and job security that Drake Law provided Professor Power was a prime example of the school’s commitment to experiential education.\textsuperscript{174} Across the law school world much progress has been made with regard to these issues in recent

\textsuperscript{170} Id. Congressman Smith was a believer in clinical legal education for two reasons: (1) improving the competency of new lawyers, and (2) providing needed legal assistance to individuals who could not otherwise afford it. \textit{Dedication to Congressman Neal Smith, supra} note 19, at 942.

\textsuperscript{171} Id. at 942 n.36.

\textsuperscript{172} Id. at 942.

\textsuperscript{173} In 1985, Drake received a $4 million grant from Congress that “provided $1 million for construction of the new Legal Clinic building and $3 million to fund an endowment trust to ensure funds for partial operating costs of the [Drake] Law School Legal Clinic.” \textit{Service of Neal and Bea Smith, supra} note 19, at 3. As part of the appropriations bill for fiscal year 1992, Drake Law received $1.3 million to build an addition to the legal clinic which would be used to further the clinic’s service mission on behalf of the indigent, elderly, and disabled by “enhanc[ing] the training of Legal Services Corporation attorneys and Drake [L]aw students.” \textit{Drake to Enhance Legal Training, Services, ONCAMPUS,} Dec. 1991, at 1, 1–2.

years, but Drake Law played a leadership role from the beginning. Today the majority of clinicians do not have tenure, but increasingly most have long-term contracts. That is what Drake Law has done. To attract and retain excellent clinical faculty, Drake Law developed criteria for hiring, retaining, promoting, and granting long-term, presumptively renewable contracts to clinical faculty which parallel the traditional tenure track but recognize that some criteria appropriate for classroom faculty are not well or fairly suited for clinical faculty.

3. Clinic Student Attorneys Are Licensed per the Iowa Supreme Court Student Practice Rule

Under the in-house legal clinic representation and participation model, law students are licensed as student attorneys per the Iowa Supreme Court’s student practice rule to provide representation for actual clients under the full-time supervision of Drake Law clinical faculty and lawyers. Although the clients who are served and the areas of law in which the student attorneys practice are very similar to the legal aid externship model, the quality and quantity of supervision is significantly increased and intensified in the in-house legal clinic setting.

In the legal aid externship, the lawyers’ primary mission was the delivery of quality legal services to their clients; supervision of law students assisting in that representation was, for many, an incidental or side benefit of the primary mission. This was understandable, as the legal aid lawyer is employed by the legal services program whose mission is the delivery of legal services to poor people in the community served. The legal services program anticipates the student attorney will assist the lawyer to whom they are assigned and further the goal of service delivery, and hopes the student attorney develops practical lawyering skills and understanding of the social service and justice mission of the legal service program along the way.


176. Consistent with practice in law school clinics across the country, it has always been necessary at Drake Law to utilize non-tenured adjunct lawyer faculty to supplement the supervision of the tenured and long-term contract clinical law faculty supervisors. The adjunct faculty were carefully selected from a mix of full-time specialists and part-time general practitioners, with the latter providing supervision of student lawyers at both the Smith Center and the outlying legal aid clinics Drake Law operated in Newton, Boone, and Ames that were part of its programming until 2000.

177. IOWA ADMIN. CODE r. 31.15 (2021).
In the law school in-house clinic, representation of the client’s interest was also the primary mission, but the clinical professor’s supervision and instruction was always central to the mission as well—it was never incidental or merely a side benefit. There was also a very significant differentiation in the responsibility assumed by the student attorney in these two settings. Typically, in the legal aid externship, the student attorney would assist the legal aid lawyer in the representation, similar to the role a law student has when clerking for a private firm or a government agency. In the Drake Law in-house legal clinic, the student attorney typically assumes lead responsibility for the client’s case, with the professor serving to provide guidance with a light touch and always prepared to intervene in the rare instance when necessary to ensure protection of the client’s interest. The full-time supervision afforded by a law school professor-lawyer in the in-house law school legal clinic model provides the basis for authorizing certification of clinic students as student attorneys under the Iowa Supreme Court’s student practice rule.\textsuperscript{178}

Pursuant to Iowa Supreme Court student practice rule 31.15, students enrolled in the legal clinic receive a one-semester student attorney license from the Iowa Supreme Court.\textsuperscript{179} To be eligible law students must have completed “not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree,” and a formal certification that they are eligible must be provided to the Iowa Supreme Court.

\textsuperscript{178} See \textit{id.} r. 31.15(1).

\textsuperscript{179} \textit{Id.} (“Iowa Supreme Court Student Practice Rule 31.15(1) Law students enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 and certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state: a. Appearance by students as defense counsel in a criminal matter in any trial court must be confined to misdemeanors, and the student must be under the direct supervision of licensed Iowa counsel who must be personally present. b. Appearance by students in matters before the Iowa Supreme Court or the Iowa Court of Appeals must be under the direct supervision of licensed Iowa counsel who must be personally present. A student presenting an oral argument before the supreme court or the court of appeals must file with the clerk of the supreme court an appearance with proof of compliance with rule 31.15(1). The appearance must be filed no less than seven days prior to the argument and must be served upon all counsel of record and parties not represented by counsel. c. Appearance or assistance by students in other matters must be under the general supervision of licensed Iowa counsel, but such counsel need not be personally present in court unless required by order of the court.”).
Court by the dean of the law school in advance of the clinical experience.\textsuperscript{180} Rule 31.15 authorizes law students who have completed 45 credit hours to represent actual clients in civil cases and in simple misdemeanors—under the supervision of law school faculty-lawyers.\textsuperscript{181} Rule 31.15(1)(b) expressly authorizes student attorneys to present oral argument before the supreme court or the court of appeals, and numerous Drake Legal Clinic students have done so over the years.\textsuperscript{182} In misdemeanor cases and in oral arguments before the appellate courts, “the student must be under the direct supervision of licensed Iowa counsel who must be personally present.”\textsuperscript{183} In 1996, the Rule was extended to authorize law students who had completed 30 credit hours to provide clients with representation in contested case administrative hearings (such as unemployment compensation cases).\textsuperscript{184}

Since 1995, an actual swearing-in ceremony presided over by an Iowa jurist is held in the courtroom of the Smith Center, which houses the Drake Legal Clinic, during the orientation that precedes each semester’s clinical experience.\textsuperscript{185} The new student attorneys take the same attorney’s oath, administered by a district court judge, that they will take once they have passed the bar examination following graduation. It is fair to say that the student attorney experience is transformative because there is a client whose interest, rights, and sometimes liberty depend upon the representation the student attorney provides. Drake Legal Clinic and select externships, such as the prosecutor internships co-supervised by Drake Law faculty, can fairly be described as the penultimate experiential education experience because of the responsibility and accountability that is endemic to the attorney–client relationship.

Yale Law School’s William O. Douglass Clinical Professor of Law Stephen Wizner’s writings have captured the goals of the clinical program as a law office and also as an educational experience for each law student:

\begin{quote}
\textsuperscript{180} Id. \textit{r}. 31.15. \\
\textsuperscript{181} Id.; \textit{Drake Legal Clinic, Drake UNIV.: L. SCH.}, \url{https://www.drake.edu/law/clinics-centers/clinic} [\url{https://perma.cc/GG7G-TZWG}]. \\
\textsuperscript{182} \textit{Iowa Admin. Code} r. 31.15(1)(b) (2021). \\
\textsuperscript{183} Id. \textit{r}. 31.15(1)(a). \\
\textsuperscript{184} Id. \textit{r}. 31.15(2). \\
\end{quote}
[T]he law school clinic is a teaching law office where students can engage in faculty-supervised law practice in a setting where they are called upon to achieve excellence in practice and to reflect upon the nature of that practice and its relationship to law as taught in the classroom and studied in the library.\textsuperscript{186}

Professor Wizner identified two very important aspects of clinical legal education that distinguished it from the traditional law firm clerkship.\textsuperscript{187} The first is the personal responsibility that the student attorney assumes when engaged in client representation:

It is a basic assumption of clinical legal education that students can be motivated to learn by being given the responsibility for assisting real clients with their legal problems. As the student becomes aware of the reality of a client’s legal situation, and how important legal representation is to the resolution of the client’s problems, the student will become ever more conscious of her responsibility to the client.\textsuperscript{188}

The second is

[t]he student’s feeling of personal responsibility in representing an individual client can grow into a feeling of social responsibility for the provision of legal services to the poor. As the student realizes that, in all likelihood, the client would not have access to legal assistance but for the law student and the clinic, her consciousness is raised.\textsuperscript{189}

Professor Wizner found that there is often an “awakening to a sense of social responsibility [that] occurs when students represent low-income clients who are seeking to protect their basic interests in income, liberty, or fairness.”\textsuperscript{190}

Law students have long been able to obtain employment as law clerks with law firms, corporate legal departments, and government agencies. Such employment provided good practical training for law students in the years before the legal clinics were offered as part of the law school educational

\textsuperscript{186} Wizner, supra note 155, at 1930.
\textsuperscript{187} Id. at 1934–35.
\textsuperscript{188} Id. at 1934.
\textsuperscript{189} Id. at 1934–35. It will not surprise the reader to learn the transformation from student to professional is not instant. It cannot be denied that, for some students, it was a rude awakening that they not only had to be promptly at the courthouse for an 8 a.m. hearing, but they had to wake up much, much earlier in order to be truly prepared for that hearing.
\textsuperscript{190} Id. at 1935.
experience, and such employment opportunities continue to provide practical training. Such clerkships sometimes can result in post-graduate employment as well. Because such employment is not part of the law school educational program, the educational quality of such employment experiences can be inconsistent; and of course, not all law students can secure law-related employment. While Drake Law does not guarantee that every law student will be able to have a clinic experience, it has made every effort to do so. Based on Drake Law's institutional history, we do not believe there has ever been a Drake Law student who wanted an in-house clinical experience but was unable to enroll in the legal clinic. Because the number of students enrolled in any of Drake Legal Clinic's current specialized clinics does not exceed 8 to 10 students, this informal guarantee does not mean every student is able to have their first choice of the clinic offerings—but that they are assured of an opening in one of its specialized clinics.

In addition to the focused supervision that a Drake Law student receives from their clinical professor when enrolled in the legal clinic, there are several marked differences in the clinical experience from a clerkship. In a clerkship with a law firm or government agency, the law clerk assists the lawyer; if the matter involves litigation, the law clerk does not enter an appearance. In the law school clinical setting the student attorney has the lead role—is responsible—in the client’s representation. The student attorney will enter a formal appearance in court; of course, the student attorney is backed up with a clinical faculty or supervising lawyer always there to guide the representation and, in rare instances, to step in if the student attorney’s representation falters. In the clinical setting, faculty supervision is a full-time responsibility with a typical student-to-faculty ratio of 8:1 that ensures close monitoring of a student attorney’s progress on each client’s case and provides the student attorney with the individualized feedback necessary to ensure the dual objective of providing every client with quality legal representation and every student attorney with a quality learning experience.

Client representation in the in-house clinic setting is an educational experience that “brings it all together.” To borrow from Dean Pound, it is rooted in substantive and procedural law—“law in the books”—but expanded to encompass all aspects of the human dimension that is the reality of law in action.191 It necessarily involves the very human relationship skills of compassion and empathy for one’s client while retaining the detachment to exercise sound and independent legal judgment, developing the tact and

191. See generally Pound, supra note 37.
diplomacy to deal with judges, court staff, and clerks at the courthouse or an administrative agency, interviewing witnesses and interested parties, interacting with counsel representing a person or company on the other side of a dispute, and much more. One gains a deep appreciation for the importance of gathering and discovering the facts that is not apparent from the study of appellate case law which has dominated so much of legal education, in which students read cases that “state” in a brief paragraph or two what the facts were.

For 50 years, several thousand Drake Law graduates have obtained real-world law practice experience through the Drake Legal Clinic, and selected externships, on behalf of actual clients as a student attorney. That experiential education has developed lawyering skills, professional values, and a commitment to public service and social justice. Chief Justice Cole unquestionably would have applauded—nay, he would have trumpeted—the clinical legal education model! Chief Justice Cole would have viewed his cherished practice observation and simulation experiences as preparatory and would have acknowledged the Drake Legal Clinic’s roots in the original apprenticeship and the legal aid externship models. Chief Justice Cole would applaud the much, much improved law school faculty or lawyer supervision of today’s clinical and externship models, ensuring each student attorney receives quality guidance and feedback throughout their client representation experience. The clinical model, when properly implemented, can provide an outstanding educational experience and delivery of high-quality legal services. Implementation was the significant weakness of the legal aid externship model that was found to have many shortcomings in practice.


From its outset in 1971 the Drake Legal Clinic provided each law student with a general practice clinic experience involving civil and minor criminal matters, always providing free representation to its clients. In addition to its “home” office in residential housing on Brattleboro Street adjacent to the campus, the Drake Legal Clinic initially served students through campus legal services at both Drake University and Iowa State University, and also provided legal aid services in Newton, Iowa in Jasper County and Boone, Iowa in nearby Boone County.\(^{192}\) The latter were among

\(^{192}\) Nied & Quirk, \textit{supra} note 18, at 8–9 for a more in depth look at the Jasper and Boone County Legal Aid Program operated for 25 years by the Drake Legal Clinic.
the first rural legal aid programs in the country, preceding the National Legal Services Corporation in 1974. Representation of the elderly, with will drafting, guardianships, and health care powers of attorney as major staples was one of the subject matter areas to which students were exposed during the era of the general practice clinic through 2000. It continued on as a specialized senior citizens clinical offering through 2020. Since 1995, as a result of a series of contracts with the Iowa State Public Defender, indigent criminal defense was another of the subject matter areas to which students were exposed during the general practice clinic era; the criminal defense clinic specializing in misdemeanor and select felony cases continues today. Under the supervision of Professor Robert Rigg for more than a quarter of a century, it has been a strong addition to Drake Legal Clinic's programming. Despite carrying a heavy clinical teaching load, Professor Rigg produces a considerable volume of scholarship reflecting his clinical teaching and considerable criminal defense practice experience. The civil clinic was likewise an integral part of the general practice clinic and it too continues as a specialized general practice civil clinic today. It has been under the supervision of Professor Sally Frank for three decades. While the general civil clinic's primary focus has been on family law, a number of its students have also assisted Professor Frank in her pro bono representation of anti-war and other social justice protesters over the years.

193. Id. at 8.
195. See generally id.
198. Professor Frank was awarded the Catholic Peace Ministry's Bishop Maurice Dingman Peace Award in 2013: “As a lawyer and law professor, Frank has represented protesters for years, defending citizens who have used nonviolent civil disobedience to challenge U.S. foreign and domestic policy.” Professor of Law Sally Frank Awarded Bishop Dingman Peace Award, Drake Univ. (Mar. 18, 2013), https://news.drake.edu/2013/03/18/professor-of-law-sally-frank-awarded-bishop-dingman-peace-award/ [https://perma.cc/NZ6T-SVHF].
Until 2000, the entry-level clinic was a general practice clinic. Each student attorney had a principal faculty or lawyer supervisor, but each would have a mix of clients with civil and criminal matters. It was intended that, for a few client matters, the student attorney would be under the supervision of faculty members other than their principal supervisor. For example, a student would be supervised by Professor Rigg on a criminal case, Professor Frank on a divorce or child custody case, Professor Karnale Manuel on a bankruptcy case, and so forth. This clinical model was envisioned to replicate the experience of new associates in small law firms, which are common in Iowa cities large and small. It enabled each student to experience law practice in several different legal contexts and, by working with more than one faculty supervisor, to observe a variety of approaches and styles of lawyering. It was modeled on client problems that were comparatively simple and straightforward in terms of the substantive law, thereby allowing the student attorney to focus principally on development of their lawyering skills. Ideally, work was on client matters the student attorney could handle from start to finish during a one-semester clinic—approximately four months. The clinical law faculty utilized weekly “firm” meetings to coordinate student supervision. The awareness of what faculty and students were doing in areas outside of one’s specialty area provided both the faculty and the students with a “big picture” of the clinic’s educational mission and its service delivery to the community and promoted collegiality.199

Initially housed in offices which were converted from the Drake University owned residence on Brattleboro Street approximately one block from the main law school classroom building, Drake Legal Clinic moved to its current home in the Smith Center in 1987.200 Congressman Smith was “instrumental in Drake University’s receipt of a substantial endowment appropriation to support clinical education at the law school. . . . [O]ur history also provided funding for the home of Drake’s clinical programs, suitably named by the university as the Neal and Bea Smith Law Center.”201 U.S. Supreme Court Chief Justice Warren Burger was himself a strong proponent of strengthening the experiential component of legal education.202 The great respect Chief Justice Burger had for Congressman Smith was evident when he honored him and Drake Law by giving the keynote address at the

199. See Nied & Quirk, supra note 18, at 8–9.
200. See id. at 8.
202. Dedication to Congressman Neal Smith, supra note 19, at 941 n.27.
dedication of the new Smith Center in 1987.\textsuperscript{203} Undeniably, the Smith–Power legislative collaboration redounded to the benefit of clinical legal education generally and to Drake Legal Clinic in particular.\textsuperscript{204}

The splendid Smith Center is located at 2400 University Avenue.\textsuperscript{205} Its location on this main Des Moines thoroughfare gives important visibility to the public as several central city bus routes run along University Avenue and there are bus stops right at the Smith Center. Its location ensures ready accessibility for its far-flung clients. Drake Legal Clinic provides up to 50 students per semester with their own carrel and file cabinet space, and offices for each of four full-time clinical faculty members. In addition, there is shared office space for adjunct clinical faculty and staff, and a spacious library that also doubles as a classroom and meeting room when the Iowa Supreme Court visits.\textsuperscript{206} There are two private interview rooms which can be reserved and used whenever a student attorney needs a private, professional setting to meet with their client, opposing counsel, or witnesses.\textsuperscript{207}

Six years later, a federal public service grant enabled construction of an annex to the Smith Center. The Smith-Power collaboration was again key to securing the grant.\textsuperscript{208} It should be noted, however, that construction of the Smith Center in 1987 and the public service addition to the building occurred during the first deanship of David Walker.\textsuperscript{209} Dean Walker had served as a legal services attorney for four years in Indianapolis before joining Drake Law’s faculty in 1975.\textsuperscript{210} Like Congressman Smith, Dean Walker was a strong supporter of legal services for the poor and clinical legal education.\textsuperscript{211} It was no accident that Dean Walker and the Congressman Smith became steadfast friends,\textsuperscript{212} and Dean Walker continued his strong support for experiential legal education following his deanship and return to the faculty. For example, he was one of the strongest supporters of the FYTP, which in 1998

\begin{itemize}
\item \textsuperscript{203} Id.
\item \textsuperscript{204} See discussion supra Part IV.
\item \textsuperscript{205} \textit{Drake Legal Clinic}, supra note 181.
\item \textsuperscript{206} Id.
\item \textsuperscript{207} Id.
\item \textsuperscript{208} See \textit{Dedication to Congressman Neal Smith}, supra note 19, at 941.
\item \textsuperscript{209} See generally id.
\item \textsuperscript{210} \textit{Drake Law Celebrates Retirement of Two Professors}, \textit{Drake Univ.} (Feb. 8, 2016), https://news.drake.edu/2016/02/08/2016-profretirements/ [https://perma.cc/PU55-JZVD].
\item \textsuperscript{211} See generally \textit{Dedication to Congressman Neal Smith}, supra note 19, at 941.
\item \textsuperscript{212} See generally id. at 941–42.
\end{itemize}
reinvigorated the practice observation model of experiential education at Drake Law.\textsuperscript{213}

The centerpiece of the addition to the Smith Center is the state-of-the-art courtroom with tiered seating for 110 persons, 5 conference rooms, 3 additional faculty offices, and 1 office reserved for a judge-in-residence.\textsuperscript{214} The courtroom is furnished with state-of-the-art computer technology and closed-circuit recording so that proceedings can be observed on television monitors in each of the five conference rooms.\textsuperscript{215} With today’s Internet capability, the courtroom proceedings now can be observed in Cartwright and Opperman Halls, the other law buildings on Drake University’s campus. Indeed, the \textit{State v. Sihouri} trial featured in the 2021 FYTP was broadcast worldwide over the Internet.\textsuperscript{216} The courtroom is regularly utilized not only by clinical faculty and students in preparation for trial and appellate proceedings, but also by all of the trial advocacy instructors and their students, the moot court program, and in courses such as employment discrimination litigation, in which the professor includes simulation courtroom proceedings as a component of instruction.\textsuperscript{217}

In addition to its busy schedule for simulations, the Smith Center courtroom is regularly utilized for actual court proceedings. The Iowa Supreme Court holds oral arguments once each year in the Smith Center courtroom (with the entire 1L class in attendance) and the U.S. Court of Appeals for the Eighth Circuit holds oral arguments once every three years in the courtroom (with students in attendance).\textsuperscript{218} Since its opening in 1993, it has been designated as a place to hold court by Iowa’s Fifth Judicial District Court which has enabled it to serve as an overflow courtroom when the Polk County Courthouse is utilized beyond capacity or when some

\begin{itemize}
\item \textsuperscript{213} See Russell E. Lovell, II, \textit{Trial Practicum Integral to First-Year Law School Curriculum}, \textit{90 Judicature} 114, 118 (2006) [hereinafter \textit{Trial Practicum Integral}].
\item \textsuperscript{214} \textit{Drake Legal Clinic and the Neal and Bea Smith Law Center}, \textit{Matterport}, https://my.matterport.com/show/?m=s6Cg5FWXcb [https://perma.cc/XYW6-NXEW] [hereinafter \textit{The Neal and Bea Smith Law Center}].
\item \textsuperscript{215} \textit{Drake Legal Clinic}, supra note 181.
\item \textsuperscript{216} \textit{Trial Practicum}, supra note 97.
\item \textsuperscript{217} See \textit{Drake Legal Clinic}, supra note 181.
\end{itemize}
courtrooms were “out of commission” for a period of time due to renovation. The Smith Center courtroom’s official designation as a place to hold court has enabled the courtroom to host the Drake Law’s week-long jury trial that has been the focus of the FYTP during the spring semester every year since 1998, with the entire 1L class in attendance.219

The Smith Center’s facilities are ideal for the FYTP. The courtroom has permanent seating for approximately 110 persons and with portable seating can hold another 30 persons.220 The conference rooms (with their closed-circuit television access) ensure that the entire 1L class, along with the FYTP faculty, can observe the trial, including trial matters not observed by the jurors.221 The conference rooms, interview rooms, and offices serve as meeting rooms for small group sessions conducted immediately following the conclusion of each day’s FYTP proceedings.222 During the FYTP, the library and conference room serve as luncheon meeting rooms for the trial judge and students.223 Each day of the FYTP week members of the 1L class, in groups of 25 students or so, can have an opportunity over lunch to ask questions of the district court judge presiding over the trial and to get to know the judge on an informal and personal basis.224

The legal aid programs in Jasper County and Boone County continued for a dozen years after the Smith Center opened.225 This enabled a larger number of students to have a clinical experience and it also introduced students who anticipated practicing in a small town to law practice in such a community.226 The legal aid programs in Boone and Newton, small towns of 12,000 and 15,000 respectively, and approximately 40 miles from Drake University, were each assigned three or four student attorneys per semester.227 The Drake Law student attorneys completely staffed each office

219. Trial Practicum Integral, supra note 213, at 115.
220. The Neal and Bea Smith Law Center, supra note 214.
221. Id.
222. Id.
223. Id.
225. Nied & Quirk, supra note 18, at 8.
226. See id.
and were under the direct supervision of a dedicated attorney in each community: Alan Schroeder in Boone and John Billingsley in Newton.\textsuperscript{228} Schroeder and Billingsley had their own private practices in the communities and were employed as part-time adjunct faculty by the Drake Legal Clinic.\textsuperscript{229} Each office had a part-time legal secretary.\textsuperscript{230} These communities supported the legal aid program through annual grants from the Boone and Jasper County Boards of Supervisors.\textsuperscript{231} The Drake University-operated rural legal aid programs were separate from Iowa Legal Services, funded by the National Legal Services Corporation, that otherwise provided state-wide programmatic coverage.

B. Expansion of Simulation and Externship Experiences

Given that Drake Law has been a trailblazer for experiential legal education, it comes as no surprise to find it in the forefront of law schools in providing a high-quality in-house clinical experience to its law students over the past 50 years. But it is important to appreciate that while Drake Law was developing the full potential of its legal clinic in the 1970–2000 era, it continued to expand and enhance the simulation and externship components—the former a hallmark of Drake Law’s legal education from its founding, the latter of more recent vintage, beginning in 1950. Each prepares students for the practice of law and, should they elect it, the student attorney in-house clinical experience. It does not diminish these experiential offerings, which have independent stand-alone significance, to also view them as steppingstone preparation for the legal clinic. With the renewal of the practice observation jury trial experience in 1998, these four combine to form Drake Law’s experiential education foundation: (1) practice observation; (2) simulation; (3) externship; and (4) in-house legal clinic.\textsuperscript{232} This Subpart will paint with a broad brush as it is beyond the scope of this overview to take a deep dive into Drake Law’s simulation and externship programming.

The longstanding practice of Drake Law to hire faculty who have had a significant amount—typically, four to seven years—of law practice

\footnotesize{[https://perma.cc/Q7K6-ZEWD].}
\textsuperscript{228} Nied & Quirk, supra note 18, at 9.
\textsuperscript{229} Id.
\textsuperscript{230} Id.
\textsuperscript{231} Id.
\textsuperscript{232} Experiential Learning, supra note 9.
experience before they became law professors has strengthened the school’s commitment to experiential education in many ways, including through the expansion of the number of simulation and externship course offerings. It is part of the Drake Law’s culture that faculty develop simulation courses or supervise externships—and most have done so over the years.

Chief Justice Cole’s Western Jurist article envisioned that mock trial and moot court experiences would be integral to the Drake Law’s education from the beginning. That they have been and have so remained—at the core of Drake Law’s simulation offerings. Moot Court is a proud Drake Law tradition that continues today. Drake’s National Moot Court Team and the moot court program generally have been guided by the outstanding leadership of Professor Laurie Kratky Doré for two decades. Professor Doré recently had occasion to summarize the program’s notable record of accomplishments:

Our National Moot Court, ABA Arbitration, ABA Client Counseling, and ABA Negotiations teams have each earned national championships for the law school. Since winning the national championship in 2001, our National Moot Court team has advanced to the finals in New York City fourteen more times (placing first in its region for eleven of those years). We have sent an Arbitration team to the national finals five years in a row—winning the national championship in 2018, and advancing to the national quarter-finals or higher in the other four years. Our Environmental Moot Court team wrote the best brief in the country in both 2019 and 2020. Our ABA Client Counseling team competed in the international competition in Scotland after winning the national title in 2013, and students from that team advanced to nationals again last spring after winning at regionals.

In addition to these competitions, Drake Law School sends teams to the ABA National Appellate Advocacy Competition, the Saul Leffowitz Intellectual Property Moot Court Competition, the AAI

233. “One-hundred percent of Drake Law faculty have actually practiced law, and they bring that experience into the classroom.” Faculty & Staff, Drake Univ.: L. SCH., https://www.drake.edu/law/facstaff/ [https://perma.cc/8LSA-MS62].

234. See, e.g., Graduation Requirements, Drake Univ.: L. SCH., https://drake.edu/law/students/graduation/requirements/ [https://perma.cc/84WN-4JSA] (noting the wide range of simulation or skills courses, clinics, and internships that can fulfill the required six credits of skills courses).

235. See W. Jurist, supra note 3, at 454.
Mock Trial Competition, and the National Mock Trial Competition. Each of these teams have had great success at both the regional and national levels.\textsuperscript{236}

Simulation experiences remain front and center in today’s Drake Law curriculum. Legal research and writing are fundamental lawyering skills. Drake Law makes a very large commitment to legal writing (four credits) and legal research (two credits) in the 1L year.\textsuperscript{237} Drake Law is understandably proud its legal writing program is highly ranked nationally.\textsuperscript{238} In 2017 its program director, Professor Melissa Weresh, was honored by the legal writing community “with the Thomas F. Blackwell Memorial Award for Outstanding Achievement in the Field of Legal Writing.”\textsuperscript{239}

Consistent with the ABA requirement, every student must complete six upper-level credits in experiential or “skills” courses.\textsuperscript{240} This skills requirement can be fulfilled by completion of coursework in the following experiential education categories: simulations, internships, and clinics.\textsuperscript{241} Drake Law also requires students to fulfill an advanced writing requirement for two or three credits in an upper-level seminar or simulation course.\textsuperscript{242}

Many of the simulation courses are litigation-related, such as trial advocacy, mediation, prosecution and defense, pretrial advocacy, negotiations, appellate advocacy, and criminal motions practicum, to mention just a few.\textsuperscript{243} But increasingly simulation offerings have expanded and now generally track the entire gamut of the curriculum: for example, legislative practice, contract drafting, estate planning, environmental

\textsuperscript{236} Letter from Professor Laurie Doré, Ellis and Nelle Levitt Distinguished Professor of Law, to prospective law students (on file with Author).


\textsuperscript{239} Id.

\textsuperscript{240} DRACe UNIV. L. SCH., STUDENT HANDBOOK § 5.2.8 (2021), https://www.drake.edu/media/collegeschools/law/documents/Student%20Handbook%20-%20Fall%202021.pdf [https://perma.cc/H3FV-829K] [hereinafter STUDENT HANDBOOK].

\textsuperscript{241} Id.

\textsuperscript{242} Id. § 5.2.2. “A student may not count one course towards both the advanced writing requirement and the skills requirement.” Id. § 5.2.8(4).

\textsuperscript{243} Id. § 5.2.8; see also Graduation Requirements, supra note 234.
practice, and law office management.\textsuperscript{244} These are courses that blend the substantive law to real world simulations that replicate what lawyers do not only in litigation but also in a variety of law practice settings.\textsuperscript{245} The simulation courses “stand alone,” but are preparatory for actual “participation” where students in Drake Law’s in-house legal clinic represent actual clients on legal matters. As noted above, there are numerous moot court and mock trial competitions, and many other student competitions ranging from client counseling to negotiations to arbitration.

The simulation course offerings stated above represent only a sample, reflecting the interest and expertise of the current faculty. The Agricultural Law Center was founded in 1983 by its director, Professor Neal Hamilton, who led this pathbreaking program for more than 30 years.\textsuperscript{246} Students in the Agricultural Law Center’s program have numerous internship opportunities in the field of agricultural and food law.

Interns often work with state and federal institutions, including the USDA Farm Services Agency, Iowa Natural Heritage Foundation, the farm division of the Iowa Department of Justice, and the Office of General Counsel of the USDA in Washington, D.C.\textsuperscript{247} The Agricultural Law Center and the Legislative Practice Center are in the “Chief Justice Cole tradition” of capitalizing on Drake Law’s location as the capital of a Heartland state. Students in the Legislative Practice Center program learn from first-hand practice observation of the legislature in action and hands-on participation through drafting legislation and lobbying on behalf of public interest organizations.\textsuperscript{248} Both are longstanding programs that provide their students with a variety of externship opportunities during the academic year and summer breaks.\textsuperscript{249}

\textsuperscript{244} See Graduation Requirements, supra note 234.

\textsuperscript{245} Id.

\textsuperscript{246} Agricultural Law Center, DRAKE UNIV.: L. SCH., https://www.drake.edu/law/clinics-centers/aglaw/ [https://perma.cc/A65X-FFRH].

\textsuperscript{247} Agricultural Law Center Academics, DRAKE UNIV.: L. SCH., https://www.drake.edu/law/clinics-centers/aglaw/academics/ [https://perma.cc/QTY4-RMSP].

\textsuperscript{248} Legislative Practice Center, DRAKE UNIV.: L. SCH., https://www.drake.edu/law/clinics-centers/legislative/ [https://perma.cc/WRB2-TVSU].

\textsuperscript{249} See Agricultural Law Center Academics, supra note 247; Legislative Practice Center, supra note 248.
Chief Justice Cole would be very pleased at Drake Law’s broad embrace of simulation experiences throughout the curriculum and would applaud the great expansion of practical skills training and competitions in law schools nationwide since 1970. He would have also been pleased that Drake Law has taken the mock trial experience beyond its walls. In 1983 Drake Law originated the Iowa High School Mock Trial Program that has been such a success over the years.250 Chief Justice Cole would also laud the extensive growth in Drake Law’s externship and internship offerings that take advantage of its location in Iowa’s largest city and state capital: 30 externships for academic credit and additional summer legal aid and other public interest internships for compensation.251

There are currently 29 internship offerings with specific federal, state, and local government agencies and non-governmental organizations, ranging from Disability Rights Iowa to Animal Rights to Environmental Law to the Iowa Attorney General to the Polk County Prosecutor Internship.252 The latter internship has been among the most popular over the years because it has been able, with careful planning and coordination, to ensure that almost every prosecutor intern has been able to try a jury trial during their one-semester experience. In the Sahouri case that was featured in the 2021 FYTP, a Drake Law student prosecuting intern participated in the prosecution of the case.253 In addition to the 29 internship options, students are also afforded the flexibility of “creating” their own independent

250. Iowa Mock Trial Program, IOWA STATE BAR ASS’N, https://www.iowabar.org/page/MockTrial [https://perma.cc/EY6Y-WZMS]. With the support of Dean Richard Calkins, Drake Law School was instrumental in originating this mock trial competition in Iowa, a role since taken over by the Iowa State Bar Association (ISBA). See generally id. Today, the ISBA sponsors not only mock trial competitions at the high school but also at the middle school level. Id. The Iowa program is among the largest in the nation and the middle school program is the largest in the nation. Id. “[T]eachers call upon lawyers, judges, law students and other legal professionals to work with participants on the various aspects of preparing a case and conducting a trial.” Id. The educational value of this hands-on experiential education is widely recognized: “In addition to providing familiarity with the law, mock trials also help students develop important critical-thinking skills and aid in the development of fundamental research, preparation and presentation skills.”

251. Internships, supra note 17.

252. Id.

internship experience with an agency of their choosing, if the agency can demonstrate it will ensure the necessary supervision.254

There is structure and rigor to the externship experience. Drake Law requires students to complete 45 hours of work for each credit for which they are registered in an internship.255 Most of Drake Law’s internships are for 3 hours of academic credit, and therefore require a minimum of 135 hours dedicated to the internship over the course of the semester (including work directly at the field placement, time spent on seminar assignments, and time spent in the internship seminar taught by the director of clinical and experiential programs). Field supervisors provide oversight of all intern work and commit to providing meaningful work to the intern comparable to that of an entry-level attorney.256 The field placement agency must sign an internship agreement that outlines its role as the field supervisor, the role of the program director, and the role of the intern.257 The field placement supervisor is required to complete a mid-semester and end-of-the-semester evaluation for each student intern.258

Each externship requires a faculty member’s involvement, and this is not insignificant—a monitoring responsibility to ensure that the primary supervisor at the agency is fulfilling their “hands on” supervisory responsibility with each student intern.259 Because faculty have both expertise and experience with the agency, each will regularly meet with interns over the course of the semester to ensure the experience is going well and meeting expectations.260

In addition to the externships for academic credit, since 1995 Drake Law (with grant support secured from the Iowa Supreme Court and federal work study funding dedicated by Drake University) has provided summer public service fellowships with Iowa Legal Aid.261 These student attorneys are licensed under the Iowa Supreme Court student practice rule and, when funding permits, some will continue their internship into the academic

254. Internships, supra note 17.
255. See generally STUDENT HANDBOOK, supra note 240, at § 5.7.
256. See id. at § 5.7.2.
257. Id.
258. Id.
259. See id.
260. Id.
year.\textsuperscript{262} In any one summer as many as 30 Drake Law students have worked as “paid public service internships during the summer,”\textsuperscript{263} including a dozen internships at legal aid locations all across Iowa.

Because many externship experiences often replicate in significant ways the representation-participation experience of the in-house legal clinic, interns regularly find they have made a difference in their clients’ lives. They have also learned that public service is good for the soul.


I do not think that law schools, or clinicians, generally consider law reviews among their experiential education programming, but that seems an oversight. Certainly, this Author considered his law review experience as very valuable experiential education. I recently had occasion to write about how my law review experience significantly improved my research capability and strengthened my legal writing and editing skills: “My Nebraska Law Review 2L junior staff and 3L editorial board roles gave me confidence in my research and writing skills….”\textsuperscript{264} I was fortunate to have published two articles in the Nebraska Law Review by the time I graduated, and I acknowledged the experience was one of three aspects of my legal education that “had prepared me well” for my post-graduate judicial clerkship\textsuperscript{265} and for the practice of law that was to follow.

The Drake Law Review was founded in 1950.\textsuperscript{266} The Blueprint extolled the value of the experiential education received by those selected to participate on the law review: “[A] law review is indispensable in the training of the law student. It, of course, trains the student in the art of concise, accurate, and clear legal writing.”\textsuperscript{267} It acknowledged that “[o]nly the most

\textsuperscript{262} See generally id.

\textsuperscript{263} David S. Walker, Teaching and Learning Professionalism in the First Year with Some Thoughts on the Role of the Dean, 40 U. Tol. L. Rev. 421, 427 (2009) [hereinafter Teaching and Learning Professionalism].

\textsuperscript{264} Russell E. Lovell, II, In Celebration of Morrissey v. Brewer: A Surprising University of Nebraska College of Law Back Story to the Prisoners’ Rights Due Process Landmark, 100 Neb. L. Rev. (forthcoming 2022) (manuscript at *5) [hereinafter In Celebration of Morrissey].

\textsuperscript{265} Id. (manuscript at *14).

\textsuperscript{266} About Us, Drake L. Rev., https://drakelawreview.org/about-2/ [https://perma.cc/4SDD-LCJG].

\textsuperscript{267} Blueprint, supra note 3, at 36.
able students are able to produce articles of sufficient merit to warrant publication.”

It is noteworthy that the *Drake Law Review* of the 1950s, like the *Drake Law Review* of the twenty-first century, reflected the Drake Law’s educational mission. The *Blueprint* stated: “It has attempted to emphasize issues of concern to the practicing lawyer and the judiciary rather than concentrate on matters of limited concern except to the academician.” The reputation of the *Drake Law Review* for scholarship that balances theory and practice has made it a valuable research resource for courts across the country: “Drake Law Review is ranked 28 in the country in the most recent Washington & Lee (W&L) Law Journal Rankings. The ranking reflects the number of court decisions that have cited the Law Review during the five-year period from 2016–2020.”

Drake Law added the *Journal of Agricultural Law* in 1996. This specialty journal “is dedicated to the review of legal issues affecting the agricultural industry . . . [by providing] a forum to explore contemporary issues in international and domestic agricultural law.” The *Journal of Agricultural Law* significantly expanded experiential education opportunities at Drake Law, opening the door to the intensive research, writing, and editing experiences which were previously only offered to members of *Drake Law Review*.

The *Blueprint* noted that,

> The rating of the [law] school by the various standardizing agencies depends to some extent on whether they have a law review and, if so, its quality. . . . [L]awyers and judges make frequent use of the law reviews. The value of a good law review in raising and maintaining its prestige among members of the profession and the judiciary is inestimable.”

The *Blueprint*’s observation remains true today.

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268. *Id.* at 37.
269. *Id.* at 38.
273. *Blueprint*, supra note 3 at 37.
VI. NEW WINE IN OLD BOTTLES: DRAKE LAW’S EXPERIENTIAL LEGAL EDUCATION IN THE NEW MILLENNIUM

A. Drake Legal Clinic Embraces the Specialized Clinic Model, 2000–Current

In the year 2000, Drake Law made a major change in its clinical program; it ended its general practice clinic approach in favor of providing students with six specialized clinic offerings; and it also closed the legal aid offices it had operated in Boone and Newton, focusing instead all of its service delivery in Des Moines at the Smith Center.

At first blush, the general practice model appeared to have similarities to the rotation between subject matter areas and supervising attorneys used in the British post-graduate “solicitor trainee contract” as it was adapted by mega law firms in the United States’ largest cities to train new associates during the early years of clinical legal education.274 The United Kingdom solicitor–trainees enter into a two-year program; trainees rotate every six months to a different specialty area, but during each rotation they concentrate on only one area of law.275 Many large U.S. law firms followed a

274. The associate two-year rotation model has not been followed by the American mega-firms for many years. The following statement by Covington & Burling is likely typical:

We honor new associates’ practice preferences to the maximum extent possible. Over time, the associate is given both formal and informal opportunities to change assignments or to take on new matters. Associates ordinarily work with numerous partners on a variety of assignments in a number of practice areas. Partners oversee associate work assignments and are available to assist an associate in finding assignments and to consult more generally on the associate’s career development.


275. In the United Kingdom the process of becoming a lawyer is in the process of change. For many years law school graduates did not take a bar exam to secure licensing as a lawyer; instead, they had to seek post-graduate trainee contracts with law firms who would supervise them during a two-year trainee period. ReedSmith, a leading international law firm with a London base, summarizes its trainee program:

We offer exceptional training which includes an extensive programme of seminars, lectures and workshops. Our training programme is divided into four six-month seats providing balanced, practical, hands-on experience in different areas of law. All trainees are supervised directly by a Partner which provides an excellent opportunity to learn by example
similar rotation of new associates during the first decade or two that Drake followed the general practice model.  

In contrast, in Drake Law's general practice clinic student attorneys had to deal with several areas of substantive law in the course of one semester—a not insignificant learning curve—in addition to learning about client representation and developing new lawyering skills for the first time.

Although the general practice approach had been generally well received by Drake Law students, most law school legal clinics followed the specialized clinic model. In a specialized clinic, the student attorney can focus on just one area of substantive law, not several, enabling the student attorney to dig more deeply into that area of the law. More importantly, specialization allows the student attorney to concentrate on the attorney-client relationship and the professional skills aspects of lawyering—presumably the most important components of the clinical experience. Specialization is also consistent with the lawyering experience and expertise of most law school faculty nationwide, and of most lawyers nationwide who practice in urban areas.

The Drake Legal Clinic has continued to grow and evolve, responding to trends in pedagogical best practices while also remaining attuned to the unmet needs of the Des Moines community. Two clinics, the elder law clinic and the juvenile delinquency clinic, concluded in 2020 after many years of providing students with direct client representation experience and clients with high quality pro bono representation in these practice areas. In their place, two new clinical programs were born under Clinic Director and Drake Law Professor, Suzan Pritchett. The refugee clinic, under the direction of Professor Pritchett and clinical teaching fellow Allison McCarthy, provides non-citizens with representation before the federal immigration agency primarily in the area of asylum but also in other humanitarian or refugee-

and obtain invaluable expert guidance. A number of our current Partners started with the firm as trainees.

Trainee Solicitor, REEDSMITH, https://www.reedsmith.com/en/careers/general/trainee-solicitor [https://perma.cc/T8BA-XFK6]. Trainees are paid by the law firms that employed them but less than entry-level lawyer compensation. See, e.g., id. A major downside of the U.K. lawyer licensing system was the reality that fewer than half of law school graduates in the United Kingdom were able to secure trainee contracts under this system.

276. See supra note 274 and accompanying text.
277. Drake Legal Clinic, supra note 181.
278. Id.
related immigration cases. The second new clinical program is the wrongful convictions clinic. Lead by Erica Nichols Cook, the Director of the Wrongful Convictions Division of the Iowa State Public Defender, the wrongful convictions clinic gives student attorneys the opportunity to represent individuals convicted of serious felony crimes in Iowa in post-conviction proceedings in which they seek to establish their actual innocence.

In sum, today’s Drake Legal Clinic has six specialized clinics, several of which also offer an advanced clinic sequel experience: children’s rights; criminal defense; general civil practice; entrepreneurial and transactional (ETC); refugee; and wrongful convictions. The strength of the criminal defense and general civil practice clinics is borne out by their longevity and the sustained leadership of Professor Rigg and Professor Frank, respectively.

The ETC is a transactional clinic substantively; litigation is not a principal focus of the legal assistance provided. Under the supervision of clinician in residence Nick Roby, student attorneys in the ETC “assist in the formation of legal entities (including limited liability companies, business corporations and nonprofit organizations); draft leases and other business agreements; and counsel small businesses and community nonprofits on a variety of organizational, tax and transactional legal matters.”

279. Id. In addition, students in the refugee clinic engage in an advocacy project each semester, which has included organizing an asylum law training for pro bono attorneys as part of the Cady Day of Public Service, and participation in mass processing clinics with local immigration nonprofit organizations. Id.
281. Id.
282. Drake Legal Clinic, supra note 181.
284. Criminal Defense Clinic, supra note 194.
285. General Civil Practice Clinic, supra note 197.
287. Wrongful Convictions Clinic, supra note 280.
288. Memorandum from Nick Roby, Drake Univ. L. Sch. Dir.
"operate[s] like a small, business-oriented law firm. Case assignments are made, client meetings are scheduled, time is recorded, business documents are drafted and filed, issues and challenges are discussed at firm meetings to gain from the input and insights of other firm members; and engagements are concluded and closed." Consistent with the Drake Legal Clinic's overall mission, the ETC emphasizes assisting persons from underserved or underrepresented communities.289

One potential downside of the specialized clinic approach is its potential for a "silo effect," with each of the specialized clinics operating autonomously without the collaboration and collegiality that is often a product of the general practice clinic model. This has not been a problem at Drake Law as cross-clinic collaboration continues to take place across all clinical programs when clients have diverse legal needs that touch on multiple areas of the clinic's practice. The criminal defense clinic and the refugee clinic have a standing collaboration whereby students in the refugee clinic serve as consultants to the criminal defense clinic student attorneys in cases where a non-citizen is being charged with a crime in Iowa state courts which may carry collateral immigration consequences. Cross-clinic collaboration allows faculty to demonstrate holistic, client-centered

289. Id. Clinician in Residence Roby explained how responsibility transforms students into student attorneys:

    Our student attorneys are routinely faced with the responsibility of others relying on them for critical professional advice and guidance. This is initially an uncomfortable and intimidating position for our student attorneys, but they quickly realize that fulfilling this responsibility—including gaining the confidence and trust of their clients—is earned by putting to work the research, analytical, project management and counseling skills that they have acquired throughout their law school and lifetime experiences. They mature quickly and by semester-end have become quite accomplished in the roles of a trusted legal advisor and counsellor to their clients and of a productive professional in their law firm.

    Id.

290. Id. ("[The ETC] generally accept[s] engagements from the owners or founders of small businesses and community nonprofits that have traditionally been underserved or underrepresented in the business or nonprofit sectors, or those who would otherwise find it difficult to obtain legal services from private law firms. [It balances its] caseload between organizations operating in disadvantaged urban neighborhoods and those in small rural communities and between start-up and other small businesses and community nonprofits.").
2022]  

Celebrating the Drake Legal Clinic at 50

lawyering and teaches student attorneys about the value of seeking out alternative expertise and partnerships while in practice.

1. The Clinic Directors that Followed Dan Power: Professors Russell Lovell, Suzanne Levitt, Jerry Foxhoven, and Suzan Pritchett

Following Professor Power’s retirement as clinic director in 1993, Des Moines attorney and former director of the Iowa Civil Rights Commission Artis Reis served as interim director of the Legal Clinic. When Reis was appointed to the District Court by Governor Branstad in the summer of 1995, Dean Walker called upon Professor Russell Lovell to assume the leadership of Drake Legal Clinic. Professor Lovell joined the Drake Law’s faculty in 1976 and taught principally in the constitutional law, civil rights, and litigation curriculum; Lovell also had served as Associate Dean from 1986–1990. Lovell was the first of four professors to serve as Director of Clinical Programs over the 27 years since 1995: Professor Lovell, 1995–1999; Professor Suzanne Levitt, 2000–2007; Professor Jerry Foxhoven served from 2007–2017; and the current director, Professor Suzan Pritchett, has served since 2018.

Drake Law was at peak enrollment when Professor Lovell assumed the helm and the clinic under his leadership experienced its highest enrollments ever—68 students in the fall of 1995. The clinic’s student attorneys handled approximately 600 civil cases and 250 criminal cases annually at that time. The classroom component to the clinic was redesigned to be more case-specific and client-centered. An amendment to the student practice rule was approved by the Iowa Supreme Court which permitted students to participate in administrative agency hearings as early as the summer after completion of their 1L year. A summer externship program that placed students in Iowa Legal Aid offices around the state was begun with an Interest on Lawyers’ Trust Accounts (IOLTA) grant from the Iowa Supreme Court. The principal development was the design and implementation of the FYTP, a week-long experiential education program for the entire 1L class, built around the practice observation of an actual jury trial in its entirety in the courtroom of the Smith Center. Professor Lovell was the architect and founder of the FYTP program and, even after completion of his 4-year term as Clinic Director, continued to serve as Director of the First Year Trial Practicum for its first 15 years.291

291. For his creation of the FYTP program, and for his 15 years’ service directing the FYTP, Drake University honored Professor Lovell in May 2014 with the
Professor Levitt served as director of clinical programs and director of the Middleton Center for Children’s Rights. She led Drake Legal Clinic as it transitioned from its general practice model to the specialized clinic model. The Middleton Center for Children’s Rights became one of the new specialized clinics. It was unique among Drake Law’s specialized clinics in that it required that students completed the children and the law course in the spring of their 2L year, assuring substantive law expertise before entering the clinical experience, and that students make a two-semester clinic commitment during their 3L year. \footnote{The Middleton Center for Children’s Rights provides individual client representation but also works for systemic reform. For example, legislation “drafted and championed” by student attorneys in the Middleton Center for Children’s Rights “that mandates visitation rights for siblings split up through the foster care and adoptive placement process” was enacted by the Iowa legislature in 2007. As part of a nationwide effort to finalize adoptions of children from foster care during national adoption month, the Middleton Center for Children’s Rights partnered with the Polk County Model Court and Iowa KidsNet to plan and conduct “Adoption Saturday.”}

\footnote{University’s “Exceptional Experiential Learning Faculty Award.” \textit{Honoring Faculty, Staff, and Students at Experiential Learning Showcase}, DRAKE UNIV. (May 29, 2014), https://news.drake.edu/2014/05/29/drake-honors-faculty-staff-and-students-at-experiential-learning-showcase/ [https://perma.cc/W72W-UM73]. Even as he returned to classroom teaching, Lovell kept a firm foot planted in experiential education. In addition to directing the FYTP annually, Lovell and Federal Judge Mark Bennett team-taught an annual Employment Discrimination Litigation course that utilized an \textit{actual} case from Judge Bennett’s docket—one that had been decided on summary judgment but whose decision would not be published until after each year’s course had been completed—as the basis for a very “real life” simulation experience. Lovell also served as Director of both the Law School’s Public Service Scholarship Program and the Law School’s Litigation & Dispute Resolution Certificate Program, both of which had required experiential education components.}

\footnote{A two-semester experience gave students a greater likelihood that they could complete their representation of many clients’ legal problems, whether a small claims court case or a will, from start to finish, during their Clinic experience.}


During Professor Foxhoven’s 10-year tenure as director, two new clinical experiences were added in the business arena: a low-income tax controversy clinic (LITC) and a transactional nonprofit (TNP) clinic. The LITC, directed by tax professor James Monroe, was not a tax preparation clinic. Instead, it involved tax controversies such as dispute resolution with the IRS for low-income clients about back taxes, IRS collections procedures, and disputed tax rulings. The TNP clinic, now known as the entrepreneurial and transactions clinic, was directed by well-known Des Moines attorney Chip Lowe in its foundational years. Student attorneys are involved in incorporating nonprofit organizations, obtaining 501(c) designation from the IRS, and creating and maintaining the corporate documents necessary for the organization to thrive. A clinic serving immigrant women who were victims of sexual assault and violence was also added, headed by former Judge Patricia Houlihan. A judge in residence program had begun. The first judge to serve was the late Senior District Judge Joel Novak. Well-respected and personable, Judge Novak was popular with Drake Law students and staff alike and enjoyed his Drake Legal Clinic experience so much that he would often wear Drake sweatshirts in the clinic.

Professor Pritchett was named director of clinical and experiential programs and associate professor of law, effective July 1, 2018. Professor Pritchett came from the University of Wyoming College of Law, where she directed the family and immigrant clinic.

301. Id.
At the time she was hired, Professor Pritchett’s role was expanded to include oversight of all the law school’s experiential programs, including clinics and internships. This Author applauds this step as it reflects the primacy of experiential education in Drake Law School’s mission and curriculum, with the Drake Legal Clinic—again to use Director Power’s words—as the crown jewel of its experiential offerings. The expanded position has allowed Professor Pritchett to ensure Drake Law’s experiential programs conform to specific ABA standards related to experiential learning, including creating a new structure and seminar for the internship program. During Professor Pritchett’s tenure two new clinics, the refugee clinic and the wrongful convictions clinic, have been started. In addition to the new faculty hired to lead those clinics, Clinician in Residence Roby and Professor Nickole Miller are new hires, heading up the ETC and the Middleton Center for Children’s Rights, respectively.

The Smith Center has recently undergone some upgrades. In anticipation of the clinic’s 50th anniversary, new carpeting and paint were installed throughout the building. The clinic has been on a continual quest to improve its IT infrastructure, implementing changes to the IT system in the courtroom and rolling out of a system of clinic-issued laptops to each student attorney enrolled in a clinic for the semester. The clinic has also moved toward a Teams-based file storage system and upgraded wiring and electricals in the work areas of the building. It continues to move toward a paperless office environment and demonstrate to each student attorney best practices in law office practice and management.

302. Id.
2. Drake Law’s Boone and Newton Legal Aid Clinics Might be a Prototype for Professor Melissa Kidder’s Small Town General Practice Clinic

The 2000 decision to close the Jasper and Boone County legal aid offices seemed easier, at least from an experiential education perspective, than the decision to move the Drake Legal Clinic from its general practice focus to six specialized clinics. While the operations portion of the grants from Boone and Jasper Counties covered the travel expenses of the students, the 80-mile round-trip commute to Boone or Newton, especially during the winter months, was a disadvantage. In addition, the office facilities and technology in Boone and Newton were no match for those of the new Smith Center. But the offices’ small-town settings offered a practice option that historically many Drake Law graduates had chosen. There were educational advantages, too, as the reduced case volume and slower pace in these smaller communities meant that judges were more patient with student attorneys in their presentation of cases and were more likely to take time to give them thoughtful feedback on their courtroom performance, including helpful suggestions for improvement—an optimum mentoring environment. In the much busier Polk County Courthouse, our student attorneys would receive a critique from their faculty supervisor, but often the press of business did not allow for judges to make more than the briefest of comments.305

Today, across the Midwest our rural and small towns are facing many crises, not the least of which is a significant shortage of lawyers (and leaders). As Professor Melissa Kidder advocates in her Symposium article,306 there is much to be said for offering a general practice clinical experience for students (1) who envision they may opt for a general practice setting after a graduation or (2) who wish to explore returning to a smaller community to set up a law practice. Most lawyers who opt for a small-town law practice

305. There was at least one notable exception. Polk County District Court Judge Luther Glanton, LW’42, was especially receptive to allowing law students enrolled in the clinic to try cases and argue motions before him in his court. Professor Dan Power reported that Judge Glanton would provide critique, always with insight as well as good humor, and students not only learned a lot but also acquired confidence and loved Judge Glanton’s debriefings. One of the Smith Law Center interview rooms is named for Judge Glanton and displays memorabilia from his judicial career.

will generally need to be able to adapt to a general practice without the specialization typical in larger cities. Indeed, Drake Law has in recent years been a partner in a joint effort with the Iowa State Bar Association’s (ISBA), the Rural Practice Committee Program, which seeks to be supportive of law students and graduates who might be interested in small-town practices.

The Drake Legal Clinic, and the other Midwest law schools that are part of the Rural Practice Committee Program, may want to consider whether there would be a place today for a general practice clinic alternative, perhaps embracing the legal aid model once followed in Newton and Boone. A clinic alternative that provided a student attorney with a good window to grow to understand the strengths and weaknesses of a small-town law practice, including the exceptional opportunities for leadership roles in such communities, would be a meaningful contribution to addressing a significant rural America problem. It also might open surprising doors of opportunity, especially as the world has changed following the COVID-19 pandemic.

Boone was 40 miles to the north of campus; Newton was 37 miles to the east of campus. Neither was a suburb or bedroom community of Des Moines; each city had its own history and was a viable community in its own right, each had a population in excess of 10,000 during the years of Drake Legal Clinic’s operation.

By operating the legal aid offices in the Boone and Newton communities, Drake Legal Clinic’s program not only offered its students an understanding of the reality of a general practice but also gave them a window into what law practice in a small community would look like.

307. Id.
309. By chance I recently spoke with Ted Engel, LW’90, while preparing this article, and learned of his creative melding of an urban-and-small town practice. Engel has maintained a law practice in Clive, a Des Moines suburb for 30 years. In 2011, Engel and his partner, Rod Maharry, took over a law practice in Corning, Iowa, Engel’s hometown, approximately 85 miles from Clive. Engel advised that the Clive-Corning practice has worked out well. Engel and his partner split time between their two offices. Engel advised he spends three days in Clive and three days in Corning each week. Attorneys, ENGEL & MAHARRY, https://www.engelandmaharry.com/attorney [https://perma.cc/E39D-TZ7S].
B. Reimagining and Reinventing Chief Justice Cole’s Jury Trial Practice Observation Model: The First Year Trial Practicum, 1998–Current

As noted earlier, the legal aid externship that commenced in 1950 appears to have largely replaced the practice observation of actual trial court proceedings, which had been a central component of experiential education at Drake Law from the Chief Justice Cole era until the middle of the twentieth century. The observation of oral arguments in actual appeals before the Iowa Supreme Court did continue as a staple of the 1L experience during the Supreme Court Week activities each year. Typically, following the conclusion of the oral arguments, the Justices would share perspectives on oral argument strategy and discuss the court’s internal processes required to reach a majority opinion. The advocates—the attorneys who made the oral arguments—would often offer their perspectives as well. Before the construction of the courtroom in the Smith Center in 1993, the court would hold on-campus oral arguments in Sheslow Auditorium in Old Main.

As all who have graduated from Drake Law over the past quarter century know in 1998 Drake reimagined Chief Justice Cole’s practice observation model while restoring the observation of jury trials. The restoration is better seen as a reinvention of the practice observation model, taking it to a higher level by observation of an entire jury trial, rather than just segments, and by implementation of this practice observation experience as the exclusive focus of an entire week in the 1L year of studies. For over 25 years the FYTP has provided a contemporary confirmation that observation of an actual jury trial, in the context of a week-long structured...

311. Observation of appellate oral arguments is logistically much simpler than observation of a jury trial. Oral arguments are typically 15–30 minutes per side, and an entire argument is normally completed in 40–60 minutes. Only two attorneys participate, one for each side; a panel of three judges hear the oral argument, or seven judges when the Iowa Supreme Court sits en banc; and one court bailiff. Contrast that with a jury trial that can last for days, or even weeks. Consider jury selection, which almost always involves at least 35 prospective jurors and perhaps as many as 100. Consider witnesses, court personnel, court security (if a criminal trial and the defendant is in custody), etc. The Author grew to have some appreciation as to what was involved in producing a movie after he shepherded several FYTP cases and their accompanying educational programming.

educational setting, can be an exceptional learning experience. The Smith Center's beautiful, high-tech courtroom that wisely was planned not only for appellate argument but with a jury box, too, has made it feasible for the entire 1L class to observe the same trial. Indeed, the architects designing the Smith Center's courtroom followed published criteria that allowed Polk County to certify the courtroom as acceptable and appropriate for public trials; and the courtroom likewise was designed to meet federal courtroom requirements.

Drake Law 1L students observed a three-day criminal trial involving a burglary, *State of Iowa v. Blumberg*, in the initial FYTP in 1998. To be sure, observation of an actual jury trial was a pilot project, as there was some uncertainty among the faculty about giving up three days of class time. By 9:15 of the first day, the first 15 minutes, it was evident every student was engaged. That engagement continued throughout the trial, and was especially evident in the buzz of student conversation throughout the trial at mid-morning and mid-afternoon breaks and in the numbers of students arriving well before 9 a.m. to get front row seating. The FYTP practice observation experience included faculty critiques, a trial lawyer panel, and small group discussions following each day's proceedings. It received an overwhelmingly favorable response from all—students, faculty, lawyer small group leaders, and, importantly, from the counsel of the parties and the presiding judge, Chief District Judge Arthur Gamble and court personnel, and the sheriff's deputies. Within two weeks of the trial's conclusion, the faculty unanimously voted to make it a permanent feature of the spring semester of the 1L year. Further, the faculty increased the allotted time

313. At its annual meeting in New York City in August 2008, the American Bar Association awarded Drake Law School its prestigious E. Smythe Gambrell Professionalism Award. *Drake Law School Receives National Award for Professionalism*, DRAKE UNIV. (June 18, 2008), https://news.drake.edu/2008/06/18/drake-law-school-receives-national-award-for-professionalism/ [https://perma.cc/9HF2-47JE]. The ABA cited Drake's FYTP as one of four key components of "extensive professionalism curriculum that spans the entire first year." *Id.*


315. *Id.* at 118.

316. *Id.* A jury trial observation experience of course would have been a valuable supplement to upper-level Evidence, Trial Advocacy, and other litigation classes. Instead, the FYTP was modeled on the practicum that many schools of education now require of students entering their teacher education programs, so they can observe teachers in their classrooms at the outset of their studies: "The beginning course for future elementary and secondary teachers at many colleges of education is a practicum..."
from three days to a full five-day week, so students could observe each trial in its entirety—from jury selection to verdict—and so that more complex cases could be included.\textsuperscript{317}

The FYTP experiential education required the FYTP director and Smith Center personnel to coordinate and collaborate each day of the trial with the judge, court reporter and personnel, counsel for both sides, and also with the sheriff’s office as the defendant was in custody. When the entire 1L class arrived each day, that meant there were two hundred or more people who would converge on the Smith Center courtroom and other facilities. Of course, all other legal clinic functions would continue in other parts of the Smith Center. The FYTP also required significant planning in advance of the trial, working with the chief judge and court administration, monitoring the criminal and civil dockets to identify those cases most likely not to settle and which could be tried within the FYTP’s five-day timeframe, and to have identified “back up” cases should the “lead” case settle at the last minute. The FYTP would not have happened without the strong support of Chief Judge Gamble of the Polk County District Court for more than two decades. Chief Judge Gamble early on could envision its exceptional educational value. After dialogue with the various stakeholders, he became confident that the integrity and fairness of the trial could be maintained with this large student observer audience\textsuperscript{318} and persuaded his colleagues on the bench and court administration and the county sheriff that this was a project the judicial branch should support because of its exciting educational and public service potential.\textsuperscript{319} As noted above, Chief Judge Gamble presided over the first FYTP case so he could observe it first-hand. The support of Polk County

\textsuperscript{317} See id. at 115.

\textsuperscript{318} The FYTP makes every effort to obtain the consent of the parties, and in 24 of the 25 years each of the parties has consented to the trial being held at the Smith Center courtroom. In Stouffer v. State, 840 N.W.2d 726, *4 (Iowa Ct. App. 2013), the defendant objected, claiming that the format of the Drake Law FYTP, with a “150 or 200 students” observing the trial, would deny him his right to a fair and public trial. The district court overruled the defendant’s objection, and, on appeal, the Court of Appeals unanimously rejected the defendant’s claim.

Attorney John Sarcone and his staff was important, too, as it gave a greater assurance that there would be a case to observe on the planned date. Clinical faculty members Professor Rigg, Professor Frank, and Professor Manuel regularly volunteered their time to participate as small group discussion leaders and on practice panels, as has Professor Ellen Yee, who teaches criminal law and trial advocacy. A wide range of lawyers and judges, including two former Iowa Supreme Court Justices, have volunteered their time to serve as small group leaders and on practice panels. We found that lawyers and judges who had retired were especially receptive to "donating" a week of their time to make their personal contribution to the FYTP experiential education enterprise.

1. The Economist is Persuaded: The FYTP "Real Life Justice"

Unlike Court TV and television and movie portrayals of judicial proceedings, the FYTP does not select cases because they are sensational or controversial. We have found that routine—run of the mill—criminal or torts cases generally provide the best educational experience precisely because they are typical of most trials. Occasionally the typical and the topical converge, as was true of Sahouri, the trial selected for the FYTP in March 2021. The prosecution of a Des Moines Register journalist covering a Black Lives Matter protest brought international media coverage even

320. Id. Steve Foritano, the Bureau Chief of the General Trial Bureau of the Polk County Attorney’s Office, tried two cases that were featured in the FYTP, and was a regular small group discussion leader and practice panelist in many of the Trial Practicums. Upon his retirement from the County Attorney office, Foritano joined the faculty as an Adjunct Professor and has served as Director of the First Year Trial Practicum in recent years.

321. For a more detailed description of the planning that goes into each Trial Practicum, see generally Trial Practicum Integral, supra note 213. Another informal barometer of the quality of the education experience was the State Public Defender’s approval for many years that assistant public defenders could attend the entire week of the FYTP jury trial, themselves learning from the practice observation and then participating as small group discussion leaders.

322. Based on student evaluations of the jury trials observed in the FYTP, we have found as a rule that, at least for 1L students, traditional straight-forward criminal law or torts cases provide the best educational experience—much better than the more sensational cases that receive television or press coverage. Likewise, since criminal and tort law are principally matters of state law and jurisdiction, state court cases have proven to be the better educational vehicle for 1L students.

though the crime charged was only a misdemeanor.\textsuperscript{324} After Ms. Sahouri was acquitted by the jury, \textit{The Economist} magazine wrote an article, “Midwest Nasty,” which was critical of the state for having pursued the prosecution.\textsuperscript{325} In the concluding sentence of its article \textit{The Economist} was also critical of Drake Law for requiring its students to attend.\textsuperscript{326} Seeking to correct the internationally prominent magazine’s misunderstanding, Drake Law Dean Jerry Anderson wrote an eloquent rebuttal that captured the essence of this experiential education and how very special its practice observation has been for 24 years, including the 2021 experience that \textit{The Economist} had criticized:

\textbf{Letter to the Editor, \textit{The Economist}}

Your coverage of the Andrea Sahouri trial (“Press Freedom Under Pressure”) suggested that Drake University Law School’s decision to host this important trial, so that our students could observe it, was “bizarre.” To the contrary, selecting the case for our annual First Year Trial Practicum, a program unique among American law schools, turned out to be an invaluable learning experience for our students, while also helping to shine an international spotlight on this prosecution.

Remarkably, in the vast majority of American law schools, students can graduate without having ever seen a trial, let alone participated in one. That does not happen at Drake Law, because for the past 24 years, we suspend regular classes for a week so that first-year law students can observe a real jury trial from jury selection through verdict. Students have the opportunity to discuss tactical decisions and rulings with the attorneys and judges, and most years, after the jurors have reached their verdict, they are able to talk with jurors about their views of the evidence presented.

Drake Law School has from its inception been committed to a legal education that balances theory with practice—we teach not only “law on the books” but also “law in action.” The Trial Practicum serves to deepen our student’s understanding of this most democratic form of dispute resolution, in which lay citizens decide criminal and civil cases. By observing a controversial trial such as this one, they gain a greater appreciation of Thomas Jefferson’s famous insight: “I consider trial by jury as the only anchor yet imagined by man, by which a government can be held to the principles of its constitution.”

The real-life nature of the case makes it a much more impactful experience than the typical law school simulation. Seeing a defendant led off in handcuffs at the end of a murder trial, as students witnessed

\textsuperscript{324} \textit{Id.} \\
\textsuperscript{325} \textit{Id.} \\
\textsuperscript{326} \textit{Id.}
several years ago, is something they will never forget, bringing home to
them not only the importance of their legal studies, but also the dramatic
power of the legal system on people's lives and liberty.

This year's trial was a prime example of why we do this. Every first-year
student came to Drake Law last fall fresh from the summer's tragedies
and protests. Undoubtedly, they all had opinions, most of them deeply
held, about the issues involved. In our system, those important societal
questions ultimately get decided in legislatures and courtrooms like this
one. For Drake Law students, that debate is no longer abstract or
remote; it has now become very real. Now, having observed this
dramatic example of the power of law first-hand, our students will be
better equipped to engage in the debate about the quality of justice in
America.

After watching the trial from start to finish, students spoke with the
judge, attorneys, and three jurors about the details of the case. This post-
mortem dissection is as important in law as it might be in a surgical
theater. Importantly, they also engaged with a panel of experts about
the role of media in protests. They heard from journalists, academics,
and county attorneys on the interplay between our precious First
Amendment freedoms and the practicalities of law enforcement, as well
as the nature of prosecutorial discretion. As in most things in the law,
the issues are complex and I feel sure that our students now have a much
deeper and more nuanced understanding of them than they could get
from merely reading a printed account of the case.

Finally, hosting the trial at Drake shone a spotlight on the important
case, which enabled journalists around the world (including the
Economist) to better report the proceedings. We livestreamed the trial
from our state-of-the-art courtroom and made the stream available cost-
free to anyone in the world. People from India to New York were able
to observe it and judge for themselves whether the prosecution was
justified. I think the media, including the Economist, should be grateful
to Drake for helping to bring this case into the light, enabling the kind
of well-informed scrutiny you and others have provided.

Jerry L. Anderson

Dean and Calkins Distinguished Professor of Law

Drake University Law School\footnote{Letter from Jerry L. Anderson, Dean and Calkins Distinguished Professor of Law, to The Economist.}
In its March 27, 2021 issue, The Economist printed a lightly-edited version of Dean Anderson’s letter under the very appropriate caption: “Real life justice.”

At Drake Law, “[e]xperiential learning . . . is not a supplement at the conclusion of law school, but an integral component throughout a student’s education.”328 From its founding by Chief Justice Cole, Drake Law has been committed to practice observation and simulation experiences, and its simulation course offerings have constantly expanded over the years. However, with the exception of the appellate oral arguments to the Iowa Supreme Court, the jury trial practice observation component of experiential education went into hibernation in mid-twentieth century. Today, Drake Law believes the experiential education every 1L experiences truly balances theory and practice and demonstrates Drake Law’s unique integration of experiential education in the 1L year (in addition to the experiential education it provides throughout law school studies in the 2L and 3L years).330 In addition to the FYTP, which is a required 1L course, the highly regarded legal research and writing program is a required course, allotting three credit hours in both the fall and spring semesters—a demonstrable commitment.331 It includes many practice-oriented simulations in both semesters and concludes in the spring semester with the preparation of an appellate brief and two oral arguments simulations—a simulation experience that has been a core feature of Drake Law’s education since 1865. Soon after every 1L student has observed an actual jury trial during the week exclusively devoted to the FYTP, every 1L student will observe a morning of oral arguments in appeals to the Iowa Supreme Court as part of the Supreme Court Celebration week, complete with critique and commentary by the Justices and the advocates—the perfect complement to the FYTP and the 1L appellate practice simulations in their legal writing


329. Trial Practicum Integral, supra note 213, at 115. The overwhelmingly positive student evaluations over 25 years are confirmed every day by the “perceptible buzz” of enthusiastic discussion that occurs during every break in the trial proceedings. Id. at 118. There is no doubt that students’ 1L year education is significantly enriched when students experience the balance of theory and practice in their very first year—and not merely as a promise that the opportunity for “real world” experiential education “will be coming” in students’ final two years. Id. at 115.

330. See id. at 117–18.

331. Required Courses, supra note 237.
course. Although optional, 1L students are encouraged to compete in the C. Edwin Moore Moot Court Competition, an extracurricular competition open to the entire student body, early in the fall semester.

2. The Importance of "Proximity" and "Getting Close": Bryan Stevenson on the Shortcomings of the Typical 1L Year Curriculum

Drake Law’s emphasis on experiential learning in each year of law school sets it apart, especially its unique FYTP that is central to the foundational 1L curriculum. Widely acclaimed public interest lawyer Bryan Stevenson, in his best-selling book, Just Mercy, expressed disappointment in his 1L experience: “Not long after I started classes at Harvard I began to worry I’d made the wrong choice. . . . By the end of my first year I’d grown disillusioned.” He wondered if a career in law was for him but stuck it out even though “[i]t was distance I experienced in my first year of law school made me feel lost.” While he pondered whether he should continue with his

332. See Supreme Court Celebration, supra note 312.
335. Id. at 4.
336. Id. at 14. While Stevenson’s powerful lesson clearly has applicability to both externships and clinical representation, this Author believes that a practice observation experience such as Drake’s First Year Trial Practicum also allows law students to “get close” by bringing home the human dimension of the legal system, the humanity of the judge and court personnel, jurors, and the parties and their attorneys. See id. Students see first-hand the integral role that lawyers play in our justice system and the immense power of the law, particularly in the criminal justice setting, when a guilty verdict is rendered. See discussion infra Part VI.B. This reality was underscored when Yale Professor Wizner addressed a second question of pedagogy:

What do students learn from representing clients in the law school clinic that they would not learn from their regular academic courses? First and foremost, they learn that many social problems, like poverty, can be seen and acted upon as legal problems. Second, they learn that legal representation is as necessary to the resolution of complex legal problems of the poor as it is to those of the affluent. Third, they learn to develop and apply legal theory through the actual representation of clients. Fourth, they learn to use the legal system to seek social change. And finally, they learn the limits of law in solving individual and social problems. Through this experience the students are required to confront social and economic injustice, and to act on the professional obligation of lawyers to engage in public service and to provide legal assistance to
studies, he recalled his grandmother’s offered advice: “You can’t understand most of the important things from a distance, Bryan. You have to get close.”337 The world is thankful Stevenson listened and that in the fall of his 2L year signed up for a one month externship off campus with a criminal justice innocence project.338 There Stevenson met inmates on death row and came to realize their humanity.339 That experiential education brought Stevenson close to the humanity whom he aspired to serve and, having experienced that proximity, “everything came into focus.”340

Stevenson’s clinical externship did not occur until the fall semester of his 2L year—and, as he lamented, that was almost too late for him.341 Stevenson recalled his first visit to a prisoner and how it revitalized his law studies:

I had no right to expect anything from a condemned man on death row. Yet he gave me an astonishing measure of his humanity. In that moment, Henry altered something in my understanding of human potential, redemption, and hopefulness.

I finished my internship committed to helping the death row prisoners I had met that month. Proximity to the condemned and incarcerated made the question of each person’s humanity more urgent and meaningful, including my own. I went back to law school with an intense desire to understand the laws and doctrines that sanctioned the death penalty and extreme punishments. I piled up courses on constitutional law, litigation, appellate procedure, federal courts, and collateral remedies. I did extra work to broaden my understanding of how constitutional theory shapes criminal procedure. I plunged deeply into the law and sociology of race, poverty, and power. Law school had seemed abstract and disconnected before, but after meeting the desperate and imprisoned, it all became relevant and critically important. Even my studies at the Kennedy School took on a new

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Wizner, supra note 155, at 1935.
337. Stevenson, supra note 334, at 14.
338. Id. at 5.
339. Id. at 14.
340. Id. at 5.
341. Id. at 4–5.
significance. Developing the skills to quantify and deconstruct the discrimination and inequality I saw became urgent and meaningful. 342

The world is forever grateful for that 2L externship. It opened Stevenson’s eyes to how he could make a difference, that by using law as a tool he could impact people’s lives. 343 It gave his law studies new meaning when he returned to classes later that fall: “Proximity to the condemned, to people unfairly judged; that was what guided me back to something that felt like home.” 344 That 2L externship exposed him to the humanity of the clients that his innocence project represented and reinforced the centrality of the “justice” component of the law. 345 It made all the difference to his law school experience, and we all know what an extraordinary difference Stevenson has made in our nation’s quest for justice and equality over the last 35 years. 346

Stevenson’s story makes a powerful case for experiential legal education that introduces students to the human dimension of law and the legal system, and to make a commitment to significant experiential education during the 1L year. Although Stevenson was critiquing his experience at Harvard Law School, it is not necessary for an AALS survey

342. Id. at 12–13.
343. See id.
344. Id. at 14.
345. See id.
346. See generally id. For attorneys, such as the Author, who attended law school prior to 1970—other than at Drake Law and a few other law schools—our instruction was almost exclusively in the traditional classroom. The only experiential education that was required of all students was an appellate brief writing and oral argument experience in the 1L year; a select few, typically the “top 10%,” had the opportunity for a law review or a moot court team experience. Although I was fortunate to be among those who had a law review experience, I can still recall, during the summer before my final year of law school, when family friends would ask me: “I bet you are really excited that you are only nine months away from being a lawyer?” I always affirmed that I was, but deep down there was real anxiety about how much I didn’t know about practicing law, even after my law review experience and two clerkships with private firms. Then, I had the good fortune to be “hired” for a grant-funded legislative internship with significant responsibility and accountability, and with two exceptional mentors supervising me. That “supplemental” experiential education strengthened my research and writing in a real-world context, enabled me to observe first-hand and participate in the negotiation and compromises endemic to the legislative process, and put me into the dock to make numerous professional oral presentations to the legislative working group—all of which gave a huge boost to my confidence. See generally In Celebration of Morrissey, supra note 264.
to know that the almost exclusive focus on "law in the books" that Stevenson experienced during the 1L year remains the norm at most law schools today.

3. **Dean David Walker, Robin Williams in Patch Adams, Professor Roy Stuckey: The Importance of Practice Observation Early**

Drake Law won the ABA’s E. Smythe Gambrell Professionalism Award in 2008, recognizing its “development and implementation of ‘an innovative and integrated approach to teaching legal ethics and professionalism,’ which pervades the law school experience, with distinguishing features particularly in the first year of law school.” The ABA expressly highlighted the FYTP as one of the distinguishing 1L features. Dean Walker, not only in his role as Dean but also as a faculty member who office in the Smith Center where the FYTP has taken place, had occasion first hand to observe the FYTP student learning experience—in the courtroom, the small group discussions in the conference rooms, and in the hallways during breaks. Dean Walker was very familiar with Drake Law’s Gambrell application and had observed how the FYTP practice observation had provided “[the] unparalleled opportunity for students to learn about ethics and professionalism early in their professional education. . .”

In some ways, what the Carnegie Foundation Report called the “ethical-social apprenticeship” is best served by the First-Year Trial Practicum. The first year is replete with lessons about the adversary system and the lawyer’s role as an advocate of the client’s interests. Though faculty and class discussion may mitigate this view, cases are often about one side “winning” and the other side “losing,” and popular culture does little to show, let alone celebrate, the lawyer’s other possibilities and roles. During the Trial Practicum, students observe lawyers’ behavior toward all participants in the process and draw

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347. *Drake Law School Receives National Award for Professionalism, supra* note 313. Professor Melissa Weresh, as Director of the Legal Writing Program, and this Author, as Director of the FYTP and Associate Dean, co-authored Drake Law’s Gambrell Prize application. *Id.* We were honored to accept the Gambrell Award at the ABA Annual Meeting in New York City. *See id.* The ABA Gambrell Award certificate stated: “In recognition of outstanding achievement in the design and implementation of a model professionalism program.” *Id.*


349. *Drake Law School Receives National Award for Professionalism, supra* note 313.

invaluable lessons about “professionalism,” including civility, competence, and effectiveness.

To be sure, the lawyers are staunch advocates dedicated to the client they represent and students see that as well as the different styles lawyers have in the courtroom. They also see how the lawyers relate to one another—in the jury’s presence and the midst of trial, and outside the jury, for example, on breaks or during the debriefing—and they observe the mutual respect, civility, and courtesy that characterize professionalism in the practice of law. Or they may see its absence. Students look intently at how the lawyers relate to the judge and the jury, and they can feel the respect accorded to both. Students begin to understand what it means to say that lawyers are officers of the Court as well as representatives of their clients. Students are instructed of their own role and responsibility in assuring an orderly and professional environment for trial and in showing respect for the jury and the administration of justice. Elements of character previously discussed—certainly “trustworthiness,” “respect,” and “responsibility”—are plainly on display.351

People go to law school, in significant part, because they envision it as a service profession. That is also true of physicians. Robin Williams starred in the movie Patch Adams, the story of medical school students who led a student revolt because of the isolation of the academic classroom during their first two years from the curing and healing of patients that was the driving reason for why the students wanted to become physicians in the first place.352

While 1L students are not yet ready for licensure as student attorneys with full responsibility for a client, by the 1L spring semester they can conduct interviews of clients or witnesses in the clinic, internship, and volunteer service settings—as Stevenson had done in his clinical externship353—or they can participate in an observation of an actual jury trial experience such as the FYTP. As Dean Walker pointed out, the powerful

351. Id. at 442 (citing WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW 139–47 (Jossey-Bass 2007)).
352. PATCH ADAMS (Universal Pictures 1998).
353. See STEVENSON, supra note 334, at 12. Perhaps Professor Stuckey heard Bryan Stevenson speak before he publishedJust Mercy, as Stuckey advocated for “externships in which students observe or assist lawyers or judges” and for exposure of law students “[a]s early as possible in law school, preferably in the first semester . . . to the actual practice of law,” Roy Stuckey, Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses, 13 CLINICAL L. REV. 807, 819, 828 (2007).
case Professor Roy Stuckey made for “practice observation” externships has equal application to a practice observation experience such as the FYTP:

[Practice observation courses] provide excellent opportunities to study and learn about the functioning of the legal system and its capacities and limitations. It is especially important for students to study issues of justice in our society and learn to appreciate the importance of the rule of law for ensuring justice to all members of society. Only in a real world context can students examine the interaction of legal analysis and human behavior, including interpersonal dynamics and communication. They should learn during law school how the law can affect people’s lives by bringing fear or hope, sadness or joy, pain or relief, frustration or satisfaction.354

The “practice observation” model lies at the heart of Drake Law’s FYTP.355 Chief Justice Cole would be thrilled with the FYTP reinvention of the practice observation model he pioneered, and its signature expression of Drake Law’s experiential education innovative leadership: “A traditional event experienced in a revolutionary way, the First-Year Trial Practicum is the most obvious example of Drake’s holistic approach to legal education.”356 Although the FYTP celebrated its 25th year in 2022, the practice observation of jury trials is approaching its 100th year at Drake Law when the 75 years during which its students and faculty trekked to the Polk County courthouse to observe trial proceedings are taken into account—1875–1950. Again, to paraphrase Professor Stuckey, while Drake Law has been surprised by “the apparent absence of [the law school world’s] appreciation of practice observation courses,”357 this year’s celebration of Drake Legal Clinic and experiential legal education is an appropriate occasion to renew the suggestion this Author made 15 years ago—that the

354. Stuckey, supra note 353, at 829.
355. Teaching and Learning Professionalism, supra note 263, at 443 (footnotes omitted) (“Student assessments of the First-Year Trial Practicum are extraordinarily positive and attest to how much students learn and its imprint on them. The judges who have presided, the lawyers who have tried and defended cases, and those who have served as small group leaders regularly evaluate the First-Year Trial Practicum in glowing terms.”).
356. A SESQUICENTENNIAL CELEBRATION, supra note 18, at 28. The First Year Trial Practicum was recognized as a curriculum innovation by the Association of American Law Schools.’ ASS’N AM. L. SCHS. COMMITTEE ON CURRICULUM, http://www.aals.org/services_curriculum_committee_innovations.php.
357. Stuckey, supra note 353, at 828.
nation’s law schools should consider a practice observation of an actual jury trial as “integral to the first-year law school curriculum.”

Many universities and law schools now offer a J-Term—an interim term between the first and second semesters—and are searching for educational programming that best fits such a condensed, intense format. Let this Author suggest the J-Term provides an ideal opportunity to experiment with a trial practicum as a 1L pilot project. The 1L students will have completed courses in criminal law, civil procedure, contracts, and torts, and the substantive law and procedure they have just learned provides all the preparation they need to understand and appreciate a jury trial. It must be acknowledged that the logistical challenges of hosting a jury trial over several days are considerably greater than hosting appellate oral arguments for one morning, but they are not insurmountable, and Drake Law has developed a template to guide others. The privacy obligations imposed by HIPAA and the necessary infection prevention protocols are undoubtedly greater challenges for the medical schools providing observation of surgeries; jury trials in the United States of course are open to the public. The Drake Law experience that has hosted the trials at our on-campus courtroom has been ideal, but the historic Chief Justice Cole approach of taking the students to the courthouse is clearly a viable option if a law school’s physical facilities do not permit a public trial on campus or the judiciary is unwilling to move the trial from the courthouse. Indeed, the rapid advances in technology and greater public access to judicial and legislative proceedings must also be considered. More and more court proceedings can be observed via streaming on one’s computer or smart phone or even on television. While watching on a screen would lose the power of the in-person presence, it would eliminate the most difficult of logistical challenges, which could be just what is needed for the Chief Justice Cole practice observation model to experience a renaissance in the law school world.

One final observation. One of the biggest limitations on experiential education through the in-house legal clinic model has been the cost. Providing a full-time clinical professor to supervise 8 to 10 student attorneys each semester is expensive. The planning to provide the practice observation jury trial experience, and to ensure that the integrity of the trial itself is preserved at all times—a trial that is impartial, fair, and secure—is considerable. But a law school does not have to have Harvard Law School’s

endowment to provide this high-quality experiential education. Drake Law’s FYTP 25-year experience confirms that an incredible experiential educational experience for every student in the entire 1L class can be provided—and because it is based on a judicial proceeding open to the public at no charge—at a miniscule fraction of the cost of an in-house legal clinic. 359

VII. CONCLUSION & A RENEWED SUGGESTION

This Article has sought to honor the very special contributions which the Drake Legal Clinic has made to experiential education at Drake Law and the special impact Drake Law’s comprehensive experiential education has had on its graduates’ learning of lawyering skills and the responsibility of client representation. It is appropriate to celebrate the high-quality legal services provided to tens of thousands of needy clients by several thousand Drake student attorneys over 50 years, who made a difference in their clients’ lives! The Drake Legal Clinic has unquestionably taken experiential education to the very threshold of the practice of law for the past 50 years! But the Legal Clinic’s huge contribution must be appreciated in the context of Drake Law’s 157–year commitment to experiential education, which has manifested a steadfast commitment to an education that balances theory and practice—despite the law school world’s rejection of experiential education for so many years.

It is very important to recognize that Drake Law has offered a wide array of experiential education offerings, since 1865. The practice observation and simulation experiences led the way at the founding and continue to make a huge contribution to today’s Drake legal education. The externship or field placement began in 1950 with Polk County Legal Aid, and, building upon the many professional opportunities available in Iowa’s capital city, externship opportunities have expanded dramatically since 1970. And, since 1971, the Law School has assured each of its students the penultimate experiential education should they elect it, the student attorney, in-house clinical experience. It does not diminish the practice observation and simulation experiential offerings, which have strong stand-alone significance, to also view them as important steppingstones for the legal clinic. It does not diminish today’s externship offerings to recognize it was a legal aid externship which evolved into today’s Drake Legal Clinic. Together, these four components of experiential education combine to form a comprehensive law school experiential education program, with a practice

359. See Wizner, supra note 155, at 1933.
observation component in the foundational 1L year that is unique in all of legal education.

This celebration is an appropriate occasion to renew the suggestion this Author made 15 years ago—that the nation’s law schools should review the exceptional experiential education Drake Law 1L students have experienced in its week-long practice observation of an actual jury trial (in a setting that includes faculty critique, expert and practitioner panels, and small group discussions). Drake’s FYTP is now 25 years old. It has stood the test of time, including the scrutiny of The Economist.\(^{360}\) Its proven record of success gives credibility to this Author’s claim that such a practice observation experience should be “[i]ntegral to the first-year law school curriculum.”\(^{361}\) This Author is confident that if the nation’s law students had a conversation with ours, change would come quickly.

Drake Law believes experiential learning brings the book learning alive. A Celebration of the reality that Drake Law has played a principal leadership role in clinical legal education nationwide over the past 50 years is most deserving. But we should not limit our vision to 50 years! Our celebratory mantra should be: “157-50! 50-157! 157-50!” There is no better occasion than today to celebrate—what should no longer be overlooked—Drake Law’s leadership and innovation in experiential education from its founding, 157 years ago! It is a proud educational philosophy that balances theory and practice—law in the books and law in action—that has guided Drake Law since 1865. It is appropriate to celebrate the national recognition earned by Drake Law’s experiential legal education programming,\(^{362}\) led by

\(360\). See supra Part VI.B.1, and text accompanying notes 325–28.

\(361\). Trial Practicum Integral, supra note 213.

\(362\). Not surprisingly, Drake Law has never put much stock in rankings of law schools as the criteria used by the principal ranker, U.S. News & World Report, have largely disregarded experiential education. See generally Robert Morse et al., Methodology: 2022 Best Law School Rankings, U.S. News & World Rep. (Mar. 28, 2022). https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology. Drake Law has received much higher rankings when the focus has been limited to experiential or clinical legal education. Drake Law’s clinical program once again should be pleased with its “A-” grade in the most recent Spring 2022 PreLaw magazine issue, but it can’t help but wonder if Drake Law’s rating would be much higher were the First Year Trial Practicum considered. Mike Stetz, Best Schools for Practical Training, PreLaw, Spring 2022, at 2327. The preLaw magazine considers the following categories of experiential education: Clinics, 32%; Externships, 25%; Simulation courses, 20%; Moot court and pro bono hours, 10%; and “10% to additional practical training offerings, such as required legal writing.” Id. at 24. Drake’s highly ranked
the Drake Legal Clinic, as “law in action” programming that has been front
and center to a Drake legal education for 157 years. May Drake Law’s entire
experiential education programming, led by its legal clinic, continue to fulfill
the aspirational charge prominently featured in the Smith Center’s atrium:
“They that instruct many in the ways of justice shall shine like the stars
forever. Daniel 12:3.”363

required legal writing program undoubtedly earns it high marks in this latter “additional
practical training offerings” this category, leaving no or negligible weight for Drake’s
signature experiential programming innovation, the FYTP. Drake Law’s FYTP flies
under the experiential education radar because of its uniqueness—as proclaimed on a
blue banner that has long flown from a stanchion post in front of Cartwright Hall, Drake
Law’s main building: “The First Year Trial Practicum: Only at Drake.” The one time
when a national publication did expressly weigh Drake Law’s FYTP in its ranking
calculus, Drake tied for the #2 among law schools for “Best Practical Training.” JURIS
DR. (Sept. 2008). The article cited Drake Law School’s outstanding clinical programs
and included a photograph of its path breaking First Year Trial Practicum. Id.

363. Daniel 12:3.