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Thinking about Conflicting Gravitational Pulls - LITCS: The Academy and the IRS

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Thinking about Conflicting Gravitational Pulls - LITCS: The Academy and the IRS

Abstract

Professor Nancy Abramowitz examines the tensions between the work of the tax clinics in providing tax services to low-income populations and the underlying educational goals.

Keywords

Professor Janet R. Spragens, Tax Clinic, American University, Washington College of Law

ARTICLES

THINKING ABOUT CONFLICTING
GRAVITATIONAL PULLS

LITCS: THE ACADEMY AND THE IRS

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INTRODUCTION

I am both saddened and delighted to be here today at the *American University Law Review's* Janet R. Spragens Memorial Symposium on Low Income Earners and the Tax System. I am clearly saddened by the conspicuous absence of my dear colleague and friend, Janet, who was traditionally the designer and organizer of symposia such as this¹—yet I am delighted that she has left us, as a small part of her legacy, the guidance and direction to carry on.

* Director, Janet R. Spragens Federal Tax Clinic, *American University Washington College of Law*. Professor Abramowitz also teaches Contracts and Pension & Employee Benefit Law. This paper is a lengthier version of an oral presentation given at the Janet R. Spragens Memorial Symposium on Low Income Earners and the Tax System. In addition to the *American University Law Review* staff, I thank my Dean's Fellow, Catherine Engell, for all of her assistance with this symposium.

1. Professor Janet Spragens organized six Annual Workshops for Low Income Taxpayer Clinics held each May from 2000 through 2005. These workshops were cosponsored by *American University Washington College of Law* and the American Bar Association Section on Taxation.

This symposium began with a conversation about how low income earners fare substantively under our tax and retirement systems. We continued with a look at some procedural accommodations to make the tax litigation process less opaque and more easily accessible to those with little sophistication and few means. Our third and final topic today is an anniversary retrospective, of sorts, of the Low Income Taxpayer Clinic “movement.”

One topic about which Janet and I spoke frequently over the past years and, most often, in the year or two before her death, was the classic identity crisis in clinical legal education—the tension between educational and public service goals in the immediate term. Both of us had no doubt that, in the case of any conflict, the educational goal undoubtedly predominates for the federal tax clinic we taught together.

This conflict issue has been and continues to be a thorny one for law school (and perhaps other professional school) tax clinics receiving funding from the Low Income Taxpayer Clinic (“LITC”) program under Internal Revenue Code Section 7526.²

It was just about ten years ago to the day that Janet planted the seeds of what has grown into the LITC program when she testified before the National IRS Restructuring Commission about the then virtually invisible population of low income earners with unmet legal needs.³ Janet’s expertise was well developed over the prior seven years, during which time she leveraged the power of our law school’s developing leadership role in the area of clinical legal education by adding her tax expertise to our clinical program when she designed, created, and developed our tax clinic in 1990. At the time, there were but a handful of such clinics and she was charting a course through largely uncharted waters. When she decided to double the clinic size, I joined Janet at the clinic in 1996. Her work was impressive.

Janet’s message to the Restructuring Commission in 1997, about how to recognize and address the needs of the voiceless caught in the web of the tax system, was for the system to create incentives for the

2. I.R.C. § 7526 (West 2002) (enacted July 22, 1998, pursuant to § 3601(c) of Internal Revenue Service Restructuring and Reform Act of 1998).

3. See Maria Luzarraga Albanese, ed., *Tax Matters: Witnesses Want Simpler Code and Better Taxpayer Rights*, 183 J. ACCOUNTANCY, May 1997, at 24 (reporting on Professor Spragens’ testimony before the National Commission on Restructuring the I.R.S., which included a call for increased funding for education programs and assistance for low-income taxpayers). Professor Spragens told the Commission, “[p]rovisions in the tax code intended to help low-income taxpayers lose their significance when the population for whom they were intended is faced with an administrative and judicial system they cannot deal with. . . .” *Id.*

creation of more clinics to represent and to educate low income taxpayers. The Commission heard the message, as did Congress. In 1998, the IRS Restructuring Act expressly called for the funding of Low Income Taxpayer Clinics in academia (law schools and accounting/business schools) and pro bono organizations.⁴

Over the past ten years, the LITC program has taken on a life of its own. Since 2003, the LITC Program has been administered by the office of the National Taxpayer Advocate at the Internal Revenue Service (“IRS”).⁵ Clinics have been established in all fifty states,⁶ and, currently, one hundred fifty LITCs receive federal funds under this program.⁷ The guidelines and operating standards for the program are contained in IRS Publication 3319.⁸

The enabling legislation itself contains the criteria to be used by the Administration in evaluating grant-seeking clinical programs and awarding grants. Specifically, Section 7526(c)(4) directs the consideration of the following:

Criteria for awards –

In determining whether to make a grant under this section, the Secretary shall consider:

- (A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language;
- (B) the existence of other low-income taxpayer clinics serving the same population;
- (C) the quality of the program offered by the low-income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low-income taxpayers; and

4. I.R.C. § 7526(b) (defining clinic to include “a clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers” or a non-profit organization).

5. See I.R.S. Publication 3319 (Rev. 5-2006) (2007), at 1 (explaining that the Tax Advocate Service Director reports to the National Taxpayer Advocate “and is responsible for providing oversight, guidance, and assistance to LITC grantees and prospective applicants”).

6. See 1 TAXPAYER ADVOCATE SERVICE, NATIONAL TAXPAYER ADVOCATE 2006 ANNUAL REPORT TO CONGRESS 658 (2006), available at, <http://www.irs.gov/advocate/article/0,,id=165806,00.html> (follow Volume I, Section Four-Case & Systemic Advocacy hyperlink) (last visited Apr. 2, 2007) (indicating that LITC has previously funded at least one clinic in each state plus the District of Columbia and Puerto Rico). In 2007, LITC expects to fund “at least one clinic in the District of Columbia, Puerto Rico, Guam, and every state except Colorado”). *Id.*

7. *Message from the Chair*, AALS NEWSLETTER (Am. Assoc. of Law Schs., Washington D.C.), Nov. 2006, at 15.

8. I.R.S. Publication 3319 (Rev. 5-2006) (2007), at 12-19.

(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.⁹

While the legislation directs the program administrator to look at these factors, it is silent as to the weight or relative weight of each. It also includes broad categories of factors that can mean different things in different contexts and it does not preclude looking at other factors, to the extent they are not included in the listing.

The concern Janet and I shared was the possibility that the LITC Program Office would over emphasize the number-of-taxpayers-served factor in program evaluation, thereby putting academic clinics at a distinct disadvantage in seeking and/or retaining program funds. There can be little doubt that an academic institution maintaining a clinic as an experiential curricular component is *not* the model of case-processing efficiency.¹⁰ With the goals of giving students the opportunity to “lawyer” and to concentrate on the myriad of learning opportunities presented in every nook and cranny of a representation, and with the short-term tenure (i.e., full and frequent turnover) of students each academic semester or year, the academic clinic structure is, as some of my colleagues would say, purposefully designed as the model of inefficiency. Academic clinics are not, and should not be high volume case processors.

The concerns Janet and I discussed were also shared by many in the academic LITC community. There was a sense that “productivity,” as measured by case numbers, would be a, or even the, major factor in LITC funding decisions. Thanks in large part to Janet, the National Taxpayer Advocate has recognized essential differences between academic and pro bono clinics and has extended a hand to academia to offer criteria for evaluating their programs.¹¹ To be sure, the decision makers are duty bound to identify meaningful evaluative criteria for their decisions to commit and to monitor the use of government funds pursuant to the law. Their charge is an important and serious one.¹²

9. I.R.C. § 7526(c)(4).

10. David F. Chavkin, *Am I My Client's Lawyer?: Role Definition and the Clinical Supervisor*, 51 S.M.U. L. REV. 1507, 1508-09 (1998) (“[A] still-largely unexamined issue is the nature of the supervisor-client relationship. Defining this relationship helps us determine the extent to which legal standards constrain our ability to give full rein to pedagogical goals.”) (footnotes omitted).

11. See I.R.S. Publication 3319 (Rev. 5-2006) (2007), at 35 (acknowledging that clinical education programs are different from nonacademic programs and that the LITC program will therefore “consider additional ways in which academic clinics can accomplish LITC Program goals”).

12. The TIGTA Web site reported recently on criminal charges for alleged fraud in one clinic's LITC application. This is the first report of this kind involving LITC

As the LITC program approaches its tenth anniversary, this symposium in Professor Janet Spragens' memory appears to be a timely and appropriate forum for reexamining our "roots" and our mission as an LITC operating within the academy's clinical legal education environment with a view toward responding to the call for suggestions for evaluative criteria for academic LITCs.

I. THE ACADEMIC CLINICAL SETTING

The clinical legal education movement has many beginnings and many who would claim parenthood. Clinic history literature includes interesting pieces tracing the clinical movement's varied pivotal points—early Twentieth Century response to Christopher Columbus Langdell's seemingly sterile case methodology for learning,¹³ Jerome

funds. As described, with alleged fraud and concealment in what appears to be part of a larger political agenda, this problem is not likely curable through different or greater evaluation and reporting criteria and seems to be a problem of a different species.

On February 7, 2007, Marwan Othman El-Hindi and Ashraf Zaim were charged in a seven-count indictment in the U.S. District Court, Northern District of Ohio, Western Division, for conspiracy, *theft of public money*, wire fraud, and false statements in connection with the Internal Revenue Service's (IRS) *Low Income Taxpayer Clinic (LITC)* grant program.

According to the indictment, in July 2001, El-Hindi and Zaim willfully and knowingly conspired to fraudulently obtain approximately \$40,000 in Federal Government funds through the LITC grant program by using Educational Social Foundation Services, Inc. (ESFS). ESFS was founded by El-Hindi and purported to be a non-profit charitable organization. El-Hindi and Zaim made false and fraudulent representations to and concealed material facts from the government in the grant application process and, thereafter, diverted the awarded grant funds for their own personal use.

In a separate indictment, El-Hindi allegedly conspired with others to kill or maim people, including U.S. armed forces personnel serving in Iraq, and to research and solicit potential funding sources for jihad, or "holy war," training. The funding sources included government grants from which funds would be diverted for training purposes. It was part of the conspiracy to propose potential training sites for use in providing ongoing firearms, hand-to-hand combat, explosives, and other paramilitary training to prospective recruits. El-Hindi knowingly distributed information pertaining to the manufacture of an explosive with the intent that such information would be used for training individuals in the construction and use of bomb vests. El-Hindi also distributed information that contained a slide show demonstrating the preparation and use of improvised explosive devices against apparent U.S. military vehicles and personnel.

U.S. Treasury Inspector General for Tax Administration (TIGTA), Recent: Individuals Indicted for Conspiracy to Commit Fraud Against the IRS Regarding the Low Income Taxpayer Clinic Program, http://www.ustreas.gov/tigta/oi_highlights_recent.shtml (last visited Apr. 2, 2007) (emphasis added).

13. See generally JOSEF REDLICH, *THE COMMON LAW AND THE CASE METHOD IN AMERICAN UNIVERSITY SCHOOLS* 50 (1914) (praising the case method of teaching); Anthony Chase, *Birth of the Modern Law School*, 23 AM. J. OF LEGAL HIST. 329 (1975) (tracing the historical and pedagogical roots of the case law teaching method); Chris Langdell, *Correspondence—Law School Curriculum: A Reply to Kennedy*, 14 SETON HALL

Frank's call for hands-on practical experience,¹⁴ and the calls in the 1970s for more relevance in legal education,¹⁵ *inter alia*. I am proud to say that a number of my colleagues at *American University* have taken important roles in the clinic momentum-gathering period of the last twenty-five years or so. They include Elliott Milstein (the first clinical professor to serve as President of the Association of American Law Schools ("AALS")),¹⁶ Bob Dinerstein,¹⁷ Ann Shalleck,¹⁸ Susan Bennett,¹⁹ Rick Wilson,²⁰ Binny Miller,²¹ and David Chavkin.²² They are among a critical mass of legal teachers and scholars²³ largely

L. REV. 1077, 1077 (1983-1984) (arguing that "[t]he purpose of a law school education is to train lawyers").

14. See generally Jerome Frank, *Legal Thinking in Three Dimensions*, 1 SYRACUSE L. REV. 9, 24 (1949-1950) (defending realism as a school of jurisprudence, in part, because of its focus on what actually transpires in courtrooms); Jerome Frank, *A Plea for Lawyer-Schools*, 56 YALE L.J. 1303 (1946-1947) (criticizing the Langellian theoretical approach to legal education).

15. See generally Francis A. Allen, *One Aspect of the Problem of Relevance in Legal Education*, 54 VA. L. REV. 595 (1968) (cataloguing problems inherent in the American system of legal education); James R. Elkins, *The Paradox of a Life in Law*, 40 U. PITT. L. REV. 129 (1978-1979) (contrasting the "real" and the "ideal" in the search for more relevant paradigms in legal education).

16. American University, Washington College of Law-Faculty—Milstein, Elliott, <http://www.wcl.american.edu/faculty/milstein/> (last visited Apr. 2, 2007); see also Symposium, *Clinical Education: Reflections on the Past Fifteen Years and Aspirations for the Future*, 36 CATH. U. L. REV. 337, 349-51 (1986-1987) (containing Professor Milstein's address at the symposium concerning the value of including clinical education in law school curricula).

17. See generally Robert Dinerstein, *Clinical Education in a Different Voice: A Reply to Robert Rader*, 1 CLINICAL L. REV. 711 (1995) (responding to Rader's article condemning his own law school clinic experience); Robert Dinerstein, *Development in the Clinical Program, 1988-1995*, 15 ADVOC., Spring 1995, at 10-11 (summarizing the development of the clinical program at *American University, Washington College of Law*).

18. See generally Ann Shalleck, *Theory and Experience in Constructing the Relationship Between Lawyer & Client: Representing Women Who Have Been Abused*, 64 TENN. L. REV. 1019 (1997) (analyzing the roles of theory and experience to educate law students on how to represent abused women); Ann Shalleck, *Clinical Context: Theory and Practice in Law and Supervision*, 21 N.Y.U. REV. L. & SOC. CHANGE 109 (1993-1994) (using a case study model to discuss the mostly unexplored supervisory aspect of clinical education).

19. See generally Susan Bennett, *Embracing the Ill-Structured Problem in a Community Economic Development Clinic*, 9 CLINICAL L. REV. 45 (2002) (using a case study model to examine how clinical professors can help students develop the story of the case).

20. See generally Richard Wilson, *Training for Justice: The Global Reach of Clinical Education*, 22 PENN. ST. INT'L L. REV. 421 (2004) (surveying clinical education outside the United States).

21. See generally Binny Miller, *Telling Stories About Cases and Clients: The Ethics of Narrative*, 14 GEO. J. LEGAL ETHICS 1 (2000) (advocating greater client involvement in decisions to use real case narratives as teaching tools).

22. See generally DAVID F. CHAVKIN, CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS (2002) (focusing on lawyering skills and values to enhance the student's legal education); Chavkin, *supra* note 10 (examining the relationship between the clinic and the clinical professor).

23. See New York State Judicial Institute, *Partners in Justice: A Colloquium on Developing Collaborations Among Courts, Law School Clinical Programs and the Practicing Bar: Introduction to Clinical Legal Education* 13 n.59 (2005),

credited with the development of clinical curricula used today. My colleagues have focused on topics such as the close-up scholarly examination of client-centered lawyering and counseling, the role of the professor/supervisor and teaching through supervision sessions, the theory of the case and the theory of the client, and the training of clinicians across the country and abroad.²⁴

The goals of clinical legal education include the development of lawyering skills and professional values. The importance of these goals, if not clearly recognized before, became clear with the issuance of the 1992 Report of the ABA Task Force on Law Schools and the Profession (“MacGrate Report”).²⁵ The Chair of that Task Force, in a recent tenth anniversary retrospective of the Report, stated:

Continuing attention and effort need to be devoted to improving law school instruction in the values that lend purpose to a law school education and the profession for which it prepares. As Judge Malcolm Wilkey has observed, “the function of a law school” is not only “to train the students to think” and “produce trade specialists in legal services” but also to foster “sensitiv[ity] to the broader issues of justice.”²⁶

The beginnings of modern clinical legal education may have taken place somewhat outside the confines of the traditional doctrinal curriculum, but as the “movement” matured, “curricular infiltration” seems to have been both inevitable and desirable.²⁷ It is plain to many that legal education benefits from cross-fertilization of the doctrinal and the experiential, and the promotion of faculty efforts to work “across the curriculum.”²⁸

The role and importance of clinical legal education seems well-accepted. Our academic “technology” in this area is now something

<http://www.courts.state.ny.us/ip/partnersinjustice/Clinical-Legal-Education.pdf>, for a compilation of early writers and teachers in the field.

24. See Partners in Justice Colloquium, <http://www.courts.state.ny.us/ip/partnersinjustice/index.shtml> (last visited Apr. 2, 2007) (containing a list of links to working papers on a myriad of subjects pertaining to clinical legal education).

25. See Am. Bar Ass’n, Section on Legal Educ. & Admissions to the Bar, Legal Education and Professional Development—An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap 386-87 (1992) (concluding that law schools should teach practical and people skills, economic and management issues, as well as life style, professionalism, ethics, and other values-related issues) [hereinafter MACGRATE REPORT].

26. Robert MacGrate, *Yesterday, Today and Tomorrow—Building a Continuum of Legal Education and Professional Development*, 10 CLINICAL L. REV. 805, 823 (1994).

27. See MACGRATE REPORT, *supra* note 25, at 234-35 (identifying skills taught in law school clinical programs that can enhance the traditional legal education experience).

28. See, e.g., WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 7 (2007) (proposing greater integration of the theoretical and the practical in legal education).

of an export. My colleagues at this institution, together with other fellow clinicians, have shared ideas for the creation of clinical programs with academicians on virtually all continents (that have law schools). The American Bar Association (“ABA”), in explaining the concept to foreign audiences as part of its well-known CEELI²⁹ program, distributes the following material:

This consensus is reflected in the [ABA] Standards for Approval of Law Schools which require all accredited law schools to offer professional skills training and an opportunity for real-life practice experience as part of their curriculum.

Clinical legal education can be thought of as both a methodology and an area of scholarly enquiry. As a methodology it uses the practice of law (simulated or actual) as a context to teach any number of subjects including legal doctrine, ethics, professional skills, effective interpersonal relations, and the ability to analyze and integrate law, facts and procedure. . . .

. . . . One purpose for the scholarly examination of the practices of lawyers is to discern their theoretical structure so the practices can be analyzed in a critical and systematic way. The most important purpose of clinic teaching is to impart these theoretical structures to students so they can develop a conceptual framework for the practice of law . . . to critically analyze their own performance, react effectively to new situations and continue to improve throughout their careers.³⁰

Clinical legal education has clearly found its berth at the academy. It is quite possible that the lines between the doctrinal and the clinical will continue to blur and some synthesized educational model will emerge and predominate in the future. For now, at least, clinical courses are unquestionably educational offerings carrying the full range of academic expectations for faculty and students.

My intent here is not, however, to analyze the state of clinical legal education but merely to provide, in rather broad strokes, a framework for understanding the context in which tax law clinics operate within law school community.

II. CURRENT MEASUREMENTS FOR ACADEMIC LITCS

The most current Internal Revenue Service Grant Application Form and Guidelines for LITCs is contained in Publication 3319

29. The acronym refers to the ABA’s Europe and Eurasia Division of the Rule of Law Initiative.

30. Neil Franklin, What is Clinical Legal Education?, http://www.abanet.org/ceeli/special_projects/blsli/franklin_article.pdf (last visited Apr. 2, 2007).

(2007).³¹ The publication recognizes that academic LITCs will clearly process fewer cases than a pro bono clinic dedicated solely to the function of being a service provider.³² Accordingly, the Program Office states it will consider how else academic clinics can accomplish “LITC Program goals” and suggests the following examples: “providing technical assistance, training, and mentoring to other LITC programs; publishing articles about the LITC program, commenting on proposed Treasury regulations that affect low income or ESL taxpayers, and monitoring [clinic] graduates to determine whether they perform pro bono work” after graduation.³³ The publication requires all clinics to complete reports with charts detailing their work by taxpayers served, status of matters handled, number and type of issues handled, etc.³⁴

The success and expansion of the LITC program is, and should be, accompanied by appropriate and meaningful oversight by the Taxpayer Advocate. Her program administration is, in turn, subject to review and evaluation by the Treasury Inspector General for Tax Administration (“TIGTA”), with further oversight, of course, by Congress. There is ever increasing pressure to find yardsticks for the evaluation of program performance.³⁵

The quest to evaluate through quantitative means is understandable. It provides clear benchmarks for quick and expedited review and comparison. It is also responsive to evaluators up the line looking to evaluate the program and the administration of the program by readily discernible means.³⁶ While the Program Office has invited alternative means of looking at academic clinics, those suggested to date are all quantitative as well.

III. CLINICAL SCHIZOPHRENIA

Serving many goals and multiple masters may well be a recipe for mediocrity, at best. Academic LITCs do not exist in a vacuum. They

31. I.R.S. Pub. 3319 (Rev. 5-2006) (2007).

32. *Id.* at 35.

33. *Id.*

34. *See id.* at 19-24 (detailing the biannual reporting requirements for LITC program participants).

35. *See* Oct. 2005 TREASURY INSPECTOR GEN. TAX ADMIN. (TIGTA) SEMIANNUAL REP. TO CONGRESS, at 49 (finding that further progress is needed in “[e]stablish[ing] goals and performance measures for the LITC program to assist the Congress and IRS in evaluating the success of the program”).

36. *See, e.g.,* Bonnie Heald, Individual Tax Returns Were Timely Processed in 2006, But Opportunities Exist to Improve Verification of Certain Tax Deductions *passim* (2006), <http://www.ustreas.gov/tigta/auditreports/2006report/200640164fr.pdf> (last visited Apr. 2, 2007) (relying on quantitative data to make general assumptions concerning 2006 tax filings).

are full-fledged members of the clinical legal education community. Their faculty are expected to behave similarly to other clinical and non-clinical faculty and their curricular goals (often established as those described in the CEELI excerpt quoted above)³⁷ are in line with those of similar clinical offerings, etc.

By the same token, there has developed an “LITC” community in which academic tax clinics also exist. Expectations for case processing and alternative productivity output enumerated in Publication 3319 impose obligations of time and resources that may conflict with clinician’s obligations of time and effort within the academy. I do not suggest that LITCs should not pursue the express alternatives; indeed, they are all important contributions to be made by academic clinics. However, the legislative history of the LITC program and the existence of law school clinics at the time Congress expressly included them in the LITC program can be read as recognition of the value of academic clinics in and of themselves. By imposing the types of “productivity” measures suggested, there is a tendency to force that particular type of activity thereby significantly disrupting what otherwise might be a better or different educational model for the use of faculty time and resources. More important, perhaps, is the confusion in clinic roles and focus between faculty and students with the types of goals suggested.

It is quite possible that a response to all of this is to question the role of academic clinics in the LITC program. Given the history of the program and Janet’s clinic model as one of the archetypes for Section 7526, the role seems unequivocal. The importance of academic clinics within the LITC community does not seem open to question.

To encourage these academic clinics and to keep them within the LITC community, I suggest the Taxpayer Advocate Service (“TAS”) and TIGTA take on the difficult task of evaluating their worth in broad, qualitative ways—giving the clinics the academic freedom to offer new and creative contributions to serve the common larger, longer term goals of the program and their own educational mission.

This is not to suggest that academic clinics should escape oversight; quite to the contrary, they should be reviewed for the functions they are primarily designed to perform: teaching legal skills and professional values within the context of tax law practice through the representation of actual clients whose needs are otherwise unmet by

37. See *supra* text accompanying note 30 (discussing the role of academic oversight in academic clinics).

the system. A well functioning academic clinic should serve the goals of the Restructuring and Reform Act of 1998 in any number of ways, including: improving clients' understanding of and education about the tax system through careful, thoughtful student representation; improving access to the legal system for the underprivileged;³⁸ improving the perceptions of fairness and access to the system through the availability of clinic resources; long-term improvement in tax compliance through the more effective education of law students about the ethics of tax practice; long-term investment in the legal system through the education of future professionals about the importance of access to justice by all; and long-term investment in the commitment to pro bono work instilled in clinic students by their exposure to and experience undertaking representation of the working poor. These goals are not really amenable to quantitative measurement.

The role of clinic faculty and students at a systemic level serving as the "watchdogs" of substantive and procedural tax issues affecting the working poor and those taxpayers with limited English skills is of vital importance. Again, however, efforts to quantify these efforts are inherently unreliable and might well produce counterproductive effects such as distracting from the clinical education mission and, perhaps, producing commentaries and input for their own sake—whether or not truly appropriate—in order to satisfy "performance goals."

While collecting performance data, TAS should expand its invitation to academic clinics to offer their own criteria for measuring success—whether or not quantitative. Academic clinics have the opportunity to play a key role in the LITC universe if artificial targets or forced performance goals do not divert their focus.

CONCLUSION

We urge TAS and TIGTA to consider the scope and content of the academic clinical programs, giving the clinical faculty the opportunity

38. My colleague, Susan Bennett, has brought to the symposium today the product of a clinical faculty team's study of the role of interpreters and equal access to justice. This award winning project has examined the nature and competency skills of interpreters against a continuum of indigent clients' legal needs. The academy's examination of this issue is valued across disciplinary lines. In addition, our tax system's special concern with reaching out to non-native English speakers in our workforce makes this work even more important. This project is an excellent example of the types of projects that make significant contributions to clinical pedagogy.

and freedom to innovate and to encourage student development and systemic advocacy without artificial targets.