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ROARK REED—REMEMBERING A COLLEAGUE

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PROFESSOR Roark Reed accepted the offer from Southern Methodist University (SMU) in 1975 to move to the State of Texas and create a brand new Criminal Defense Clinic.¹ At that time, he was a young criminal defense lawyer and had most recently been a supervising attorney in Georgetown University Law Center's criminal defense lawyering clinical training program.² In recounting the origins of the Criminal Defense Clinic, Emeritus Professor of Law Walter Steele gives much of the credit for Professor Reed's move to Texas to the students and their desire to expand the Law School's nascent clinical education program.

At that time, the school's clinical program generally reflected the state of clinical education in America:³ a patchwork of programs, some graded, others not-graded. Some were taught by faculty on tenure track working closely with adjunct supervising professors, which was the model Professor Reed used in working with Mike McCollum. Other programs of the day were taught by full or part-time non-tenured faculty, like SMU's Tax

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1. The SMU Dedman School of Law Criminal Clinic continues to supervise student attorneys in the Criminal Courts of Dallas County. The Clinic Director is Professor Christopher Jencks, and the two supervising attorneys are Mr. Mike McCollum and Ms. Brooke Busby. Mr. McCollum came to the clinic soon after Professor Reed arrived and co-directed the Criminal Clinic for many years with Professor Reed. The Law School offers an array of criminal courses and has been privileged to claim as alumni over the years many members of the local criminal bar, the district attorney's office, the U.S. Attorney's office, and the judiciary who serve in Dallas' state and federal courts.

2. Georgetown University Law Center's clinical training program is one of the largest and most well-respected programs in the country providing training for law students and for future clinical faculty.

3. Bryan L. Adamson et al., *Clinical Faculty in the Legal Academy: Hiring, Promotion and Retention*, 62 J. OF LEGAL EDUC. 115 (August 2012) (a cogent summary of the Task Force on the Status of Clinicians and the Legal Academy's findings). This article reflects the evolving role of clinical education and educators as stakeholders in the debate over the role and future of legal education. *Id.* The article also notes, somewhat circumpectly, the resistance that still exists within the academy to granting clinical education and clinical faculty a full and equal voice. *Id.*

Clinic,⁴ funded by seed money from an outside donor and staffed by adjunct faculty member Mr. Bruce Hart. The school also had a small, volunteer legal aid project—begun in the late 1940's—which allowed students to provide limited legal services in the community under the supervision of a faculty member.⁵

If you walked into the basement of Storey Hall today looking for the clinics you wouldn't recognize it as the same place Professor Reed entered thirty-five years ago. Although still in the basement,⁶ it is self-contained in a recently renovated wing. However, there is much truth to the saying that "the more things change the more they remain the same." For example, only a few years before Professor Reed arrived in Dallas, the American Bar Association had promulgated a Model Rule to permit law students to practice law under the supervision of a clinical law professor.⁷ Texas promulgated its own version in 1971, and amended it in 1975 "for the purposes of providing competent legal services for all persons and furnishing practical training to qualified law students and qualified unlicensed law school graduates."⁸ The student practice rules put in place when Roark Reed began his career at SMU are the same rules in effect today.

Nevertheless, just as there have been changes in the physical space the legal clinics occupy at SMU, there has been significant changes in clinical legal education over the past thirty-five years. Prior to the ABA's Model Rule, only fifteen states permitted student practice; by the time of Professor Reed's retirement, all fifty states, eight of eleven federal circuits, and many, many federal district courts had enacted some form of student practice rule.⁹ Today, students in American law school clinics practice in subject areas ranging from criminal defense to civil litigation and everything in between, including child advocacy, immigration rights, human rights, juvenile justice, poverty law, community development, entrepreneurship, intellectual property, housing, elder advocacy, and intellectual property, just to name a few. Indeed, during the time of Professor's Reed's tenure at SMU, the law school was host at one time or another to

4. The Tax Clinic Director during much of this time period was Mr. Bruce Hart, who is now retired. Mr. Larry Jones took over as Director of the Tax Clinic when Mr. Hart retired; Mr. Jones is also Director of the Small Business Clinic, which he developed as an offshoot of the Tax Clinic.

5. One of the founding faculty members was Professor Joseph McKnight, who developed a family law project in response to student demand and community need and began supervising students in the delivery of legal services to the poor, in addition to his normal teaching duties. This project evolved into the Civil Clinic, which is directed today by Professors Maureen Armour and Mary Spector.

6. See Maureen Armour & Mary Spector, *Epilogue: Theory in the Basement*, 51 SMU L. REV. 1555 (1998).

7. See MODEL CODE OF PROF'L RESPONSIBILITY Canon 3, EC 3-5 & n.3 (1969), reprinted in COUNCIL ON LEGAL EDUC. FOR PROF'L RESPONSIBILITY, INC., STATE RULES PERMITTING THE STUDENT PRACTICE OF LAW: COMPARISONS AND COMMENTS app. A, at 44-46 (2d ed. 1973).

8. TEX. R. STDT. PRAC. R. I (West 2012).

9. Frank G. Arellone, *The State of State Student Practice: Proposals for Reforming Ohio's Legal Internship Rule*, 17 OHIO N.U. L. REV. 13, 13 n.1 (1990).

specialized clinics in domestic violence, immigration, and prosecution, and by the time of his departure, the offerings included criminal defense, general civil litigation, consumer advocacy, tax, small business, and child advocacy. Like the programs at other schools, SMU's clinical programs also promote a clear social justice mission as they provide legal services to clients who might otherwise be excluded from or marginalized by the legal process.¹⁰

In addition to the variety of subject areas in which law clinics operate, there is a richer, more fully-informed pedagogy as a result of a growing body of clinical scholarship.¹¹ Much is owed to the MacCrate Report, which provided one of the first clear statements of lawyering skills and professional values and urged law schools to take steps to integrate the teaching of them throughout the curriculum.¹² The vision of the MacCrate Report has been reflected recently from slightly different perspectives in studies and reports relating to legal education.¹³ Although many in the clinical community claim the changes proposed by the MacCrate Report, and repeated in the Carnegie Report¹⁴ and the Best Practices Report¹⁵ have come too slowly because of institutional resistance, clinical education is an accepted and essential stakeholder in any current dialogue about the nature and future of legal education.

Like clinical faculty nationwide, clinical faculty at Dedman School of Law use a mix of seminars, one-on-one tutorials and case discussions; however, faculty members' teaching and students' learning is not confined to these settings. Teaching and learning in all of the clinics occurs in the day-to-day supervision of students' work as lead lawyers on their cases. They investigate facts; research law; and draft pleadings, discovery, and correspondence. They prepare for and take depositions, argue motions, conduct mediations, and negotiate resolutions of disputes. They pick juries, conduct opening and closing statements, examine and cross-examine witnesses, and, when necessary, they handle appeals. They re-

10. In the SMU Dedman School of Law Child Advocacy Clinic, directed by Felicia Oliphant, (student) clinic attorneys are appointed as the guardian-attorney ad litem for children who have been removed their homes. The clinic attorneys must do in-depth fact investigation and work with the prosecuting district attorney, the state agency, Child Protective Services, and the parents' attorney. The clinic attorneys work at the interstices of the social welfare system, the medical system, and the legal system and are provided interdisciplinary training to help them discharge their duties to their young clients.

11. See, e.g., Susan Bryant & Elliott S. Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education?*, 14 CLINICAL L. REV. 195 (2007); Jon Dubbin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461 (1998); Stephen Wisner, *Beyond Skills Training*, 7 CLINICAL L. REV. 327 (2001).

12. Robert MacCrate was the chairperson of a task force of the American Bar Association and author of its report, AM. BAR ASS'N, SECTION OF LEGAL EDUC. AND 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 (1992).

13. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (Jossey-Bass 2007) (the Carnegie Report).

14. *Id.*

15. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (CLEA 2007) (the Best Practices Report).

present clients in courts, administrative hearings, and creditors' meetings. At each step along the way, clinic faculty are working with students by reviewing and editing written work; mooted oral presentations for hearings or other formal or adversarial settings; and reviewing and editing written work.

Much of the change in clinical education can be thought of as a form of evolution in the implementation of core principles and values. Yet, this evolution cannot hide the fact that practicing law is a demanding profession and the niceties of the classroom can't mask the challenges of practice. Clinic attorneys learn early that tenacity and fearlessness in a lawyer are almost as important as their legal research skills.

Whether as a newly-minted clinical faculty or a senior member of the faculty, Roark's core, like the core of clinical education, did not change. Roark's passion from the first to the last day of his career at SMU Dedman School of Law was defined by two values that shaped his teaching in the classroom and in the courtroom. First, he was passionate about the role client-centered, zealous advocacy played in the legal system in Texas, America and abroad. Second, he was passionate about the role student autonomy and responsibility in the courtroom play in creating client-centered advocates.

Yet, just as clinical education evolved over time, so did Professor Reed's career. It began with the development and supervision of the Criminal Defense Clinic where he advocated the use of small-group learning within the academy.¹⁶ It moved to the teaching podium, where he taught courses in legal ethics and criminal law as well as practical skills courses such as trial advocacy. At the same time, he also considered the implications his work might have for legal systems abroad, as in his work with Japan's legal system. Even as a senior member of the faculty, he continued to find new ways for students to learn, as in the death penalty seminar he developed that allowed students to work with local attorneys handling death penalty appeals as a form of experiential learning.

Professor Roark Reed never lost his passion for zealous advocacy or for turning law students into lawyers. He was fearless and tenacious in pursuit of these goals from his first day in Dallas until the end of his career. Maybe it's true after all: "The more things change the more they stay the same."

16. Roark Reed, *Group Learning in Law School*, 34 J. LEGAL EDUC. 674 (1984).