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Walter Heiser

University of San Diego School of Law

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CONVERSATIONS IN LEGAL EDUCATION:

ORAL HISTORIES OF THE FIRST HALF-CENTURY OF THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Narrator: Professor Walter Heiser

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: April 18, 2006

Accession No.: OH-LRC-Heiser-4A

TAPE 4A: SIDE a

RL: This is an interview of Professor Walter Heiser for the project: Conversations in Legal Education: Oral Histories of the First Half-Century of the University of San Diego School of Law. The interview is being conducted by Ruth Levor in Professor Heiser's office in the School of Law on April eighteenth, two thousand and six. This is the fourth session of this set of interviews. Tapes and transcripts of this interview will be archived at the University of San Diego's Copley Library.

Well, we spent a good deal of time talking about the beginnings of the clinic program as well as some of your administrative responsibilities here at the law school. I wanted to go back to the clinic program for a bit. I know you have not been involved in that program for probably more than ten years now, but I know you're also observing what goes on. I'm just wondering if there are any glaring changes that you have observed between then and now.

WH: Probably the most glaring change is that eventually as a result of a long process, the faculty decided to adopt a form of clinical tenure for clinicians. Now, the vast majority of clinicians that are full time on the faculty are actually tenured, so they have some security, and therefore, they can stay around as long as they want pretty much.

It's a different mindset, I think, on the part of the professors now than there was when I first came here. They're not worried about what's going to happen to their job at the end of their term of years. They also have a lot more freedom, I think, or perceive a lot more freedom to be creative about the kinds of courses they offer and things of that nature. I think as a result of clinicians now being tenured, we do see a lot more creativity in how the clinics are structured, what subject matters the clinical offerings might focus on, so on and so forth. Again, things that, for whatever reason, just weren't happening when I first came here.

RL: You see that mostly as positive?

WH: Yes, mostly as positive, yes.

RL: As far as the students were concerned, are concerned, how serious did you find them to be about their clinic responsibilities?

WH: Oh, I think ninety-nine percent of them were very serious about it, spent many, many more hours on their clinical work than were either expected of them or than the school would expect, either in terms of the credit allocation, because they were so interested and so committed to what they were doing. Ninety-nine percent of them wanted to do a good job and perform well, they were dealing with actual clients, to help their clients. They were very committed.

RL: Were they in this setting particularly competitive with one another?

WH: Not that I'm aware of. I mean, in part because of how they were graded in the actual client clinics or even the simulation courses. The vast majority of those are pass/fail. There wasn't any need to compete for grades as such. Otherwise, what they were doing, in terms of working on cases or doing simulations, for the large part was meant to be cooperative as opposed to competitive.

The only exception to that would be in the simulation courses, the trial practice simulation courses. The very nature of what they're doing, litigating something, brings out the

competitive spirit. One of the trial practice, the advanced trial practice course, used to be graded on our regular grading scale, so the combination of putting them in a mock situation which is designed to be adversarial and competitive, and then on top of that, grading them, that course in particular, the students were very competitive.

RL: And you were required to use the curve?

WH: Yes, for that course, although because that course was a small course, and the grade was not based on a written exam, even under the old grading system, the curve was much more flexible for that kind of course.

RL: You might like to reflect a little bit for us on your experiences with grading curve at USD School of Law over your tenure here. What's been your observation and experience about the grading curve in general?

WH: In general? I mean, not just the clinical courses?

RL: Right.

WH: I personally, for large courses, particularly for required courses, I personally never had any difficulty with applying the grading curve in what I thought was a fair and rational way. It just always seemed to work out just fine. Even for first-year courses, when I was required to give a certain number of Ds and so on and so forth, it just seemed like there were hardly any times when I thought that the curve was forcing me to give a grade that wasn't generally speaking reflective of the student's work

In the upper class courses, elective courses, that are smaller, and therefore the students who select a particular course may not represent then a cross-section of academic abilities, the curve there made less sense, and I like most professors would complain and try to get around it by getting waivers from the associate dean and so on and so forth.

RL: With how much success?

WH: Sometimes. I mean, you know, not every time. Not every small class merits a waiver, but the ones where I thought, you have a class of twenty students, and let's say fifteen of them are doing really terrific work, you don't want to have to apply a curve that's going to make one-third of your students get a C or below or something of that nature. If you can make a good case, explain why this class is particularly good, usually there was some flexibility that you could have with elective courses. The required courses, which all tend to be big courses anyway, there was not any flexibility.

RL: When you were associate dean, were you in the position of making those decisions?

WH: Yes, now that I think about it. I try to block that out of my mind.

RL: I don't blame you.

On another topic, in the fall of 2004, the freshman class of law students included forty-four percent women and twenty-seven percent minorities. How does that compare with your observations, not maybe the actuality, but what you saw when you first came here, in terms of diversity?

WH: When I first came here in '78, my impression was, I think still is, that there were very few, a lower percentage of minority students. With regard to women, by 1978, I don't remember that being significantly different than it is today. It may well be, but it didn't seem like it was significantly different. There seemed to be roughly the same percentage that there is now, perhaps a little bit lower percentage. Minority students there definitely was a lower percentage.

RL: Do you think that had any effect on the clinic programs, on advising clients from the community?

WH: It probably did in some of the clinics. The demographics are such that if you have an immigration law clinic in San Diego, then the chances are that nearly all your clients are going to be from, if not from Mexico, then from Latin America or South America, and it definitely helped to have students that were, if not minority students, at least were Spanish-speaking students, so that made a difference.

To a lesser extent, that was true of the other clinics, where we were, at least in terms of the interviewing and counseling, but at least from what I observed, I never really noticed any difference in how clients related to students based on whatever factors might make the client and the student identify with each other. I just never saw any difference in how that played out. It could be there, but I just didn't observe it.

RL: You came to USD in '78. I don't know if I can remember the answer to this either, but do you remember what the political climate was like and how that translated on campus, if at all?

WH: Political in general, you mean?

RL: Yeah.

WH: Not really. I remember that coming from the east coast before coming out here that in general this community was a lot less liberal, much more conservative politically, the southern California community and San Diego in particular. I don't remember what was going on. I don't even remember who was president at that time and what was going on nationally.

I think at that time Jerry Brown was governor, although I'm not even sure of that anymore, so there was a Democrat, I think, in the state office of governor, but generally speaking, it struck me as being pretty conservative, and that I do think was reflected in our students, I think. I think law schools in general tend to attract a more conservative element of the student body, undergraduate student body, but I think that particularly at USD School of Law, when I first came here, predominantly, the students were all conservative in most of the things that we would measure being conservative versus being liberal in a political sense.

RL: Do you have any sense that the students who came to the clinic were the more liberal end of the spectrum?

WH: I think that probably that's true. I know that's true with regard to certain clinics, like the criminal defense clinic definitely attracted students that you would consider to be politically liberal. To a lesser extent, that was true of the civil clinics, but I think overall it is fair to say that, well, I don't know. It's hard to say. If anybody asked all the students in the clinic what their political views were, at least the ones that I came in contact with, because I got to know them through supervision, whatever else, most of them seemed to be more liberal than the general population of students.

RL: I think we may have talked off-tape, I'm not sure if we did on-tape, about some of the people who worked in the clinic who are no longer here. The name Rod Jones comes to mind. Just because I'm not sure whether we put that on tape or not, would you just talk a little bit about him, about those people.

WH: Well, as I say, I think we did, we may have gotten that on tape, but I think I had trouble remembering all the people, but I can remember most of them, if not all of them. Rod Jones was one. Do you want me to talk about each person a little bit?

RL: Any memories that you might have about them.

WH: He was just a very enthusiastic, very smart but very enthusiastic person who had a real mischievous side to his personality, but he really liked working with students. He really liked working in the actual client clinics, where he could get to know students and handle cases with them. He much preferred that than teaching in larger classes.

He was tenured when I came here, and he was tenured in a general tenure slot, so that he could teach anything he wanted. It didn't have to be clinical stuff, but he so enjoyed working with students on a small student-teacher ratio that he did all his teaching in the clinics. He was

just a very bright, fun-loving, energetic person who had a great sense of humor and was very mischievous.

RL: Can you remember any pranks?

WH: I can't remember any pranks that I want to put on tape. In fact, most of the ones I remember are ones I'm not sure Rod would want me to memorialize on tape.

RL: Okay, well that tells us something.

WH: All I can say is that nothing was illegal.

RL: I think we did talk some about Charlie Lynch.

WH: Charlie Lynch was the director. That was immediately before I came here. He was one of the founders of the clinic. The program here at USD, I have been told by people that were involved in this process, was actually founded by students. The demand for it came from the students. They actually put together a proposal, and they needed somebody to supervise what they were doing, and I think Charlie was the one that volunteered to do it.

Charlie, I gather, was already on the faculty, or maybe he wasn't full time on the faculty, but he was doing some work here already, so he came and he was the original director of the clinic. He really had spent many, many years in practice, so he had an intensely practical approach to clinical programs. He really emphasized the teaching of practical skills and not then the teaching of the more theoretical models about lawyering and so on and so forth. He was always very grounded in the real-life practical stuff that attorneys do and had so much experience that it was delightful to have him work with students, because he would have a different perspective than some of the people that had spent less time in practice and more time in academia who were in the clinic.

He was in the clinic for a long time until he retired and subsequently passed away.

The other fellow I'm not sure if I mentioned on tape or not, who came here when I first came here, in fact he was hired at the very same time, he started the very same time I did, was a fellow named Rex Perschbacher, who was hired as a clinical professor, not on the tenure track. He brought something that a lot of us lacked in clinical education. He had some experience in working with a big firm. He was a very, very bright fellow. He had done very well at, he went to law school at Boalt Hall, Berkeley, and practiced law in San Francisco for a while for one of the large firms up there. I don't remember which one it was.

So when he got into teaching, it was with a different background than a lot of the other clinical teachers. I don't know that clinical teaching was his first love, but he certainly took to it and was a terrific teacher. The students really liked him a lot. He was good in the classroom as well as dealing with supervision of students, very creative. He and I team taught a lot of things in the clinic, and I just really enjoyed working with him, because he was so creative and so smart.

He left because he wanted to be on tenure track, not on one of these year-to-year contracts. He couldn't convince the dean to do that here, so he started looking for a job. He got an offer at the University of California Davis for a tenure-track position and got tenured, became associate dean, then became dean. He's been dean up there for four or five years. Still a strong supporter of clinical education, and he's a terrific dean.

RL: Yeah, that I did have down in my notes. That you said he had become dean, but that tells us a little more about his teaching.

As you're talking, I'm wondering, I also read that the students started the idea of clinic education, and it seemed to be in terms of service to the community. The word *pro bono* was thrown in there. It seems, if you go through the old students newspapers that at some time which is not quite clear, and I don't know if you know this either, it seems like there was a divergence, that there was one track that went toward the clinical education that we're discussing here, and the other kind of fork in the road that led to the Center for Public Interest Law. I think that predated your time here. I don't know if you've heard anything about that or whether those two separated out formally?

WH: Well, actually the Center for Public Interest Law I think actually started up just after I got here or right around the time I got here. They did, and do, something different than the clinical programs do and did. Their emphasis was much more on public interest but at the kind of institutional level, so they would monitor what agencies do, what legislature in California does, things of that nature. To my knowledge, the public interest law center never really had what we refer to as clinics in the sense of representing clients, individual clients. I could be wrong about that, but I don't think they really ever had much of that.

So I wouldn't say there was a divergence in that respect. I think if there was a divergence in clinical education at USD, probably it was true that initially students wanted a clinical experience, less to learn about lawyering skills and more to serve the under-served in the community. I know the people that were involved in some of the setting up of the clinic, and I know that was their goal then, and it is their goal now as lawyers.

I think at some point there was a divergence in the sense that the clinical program began offering, students began taking courses that had less to do with service to clients in the community, under-privileged clients in the community, and more to do with learning good lawyering skills. The divergence then came, the divergence in terms of emphasis in the clinical program, then became whether you had actual client clinics, which actually represented individuals with real problems, low-income people, or whether you took simulation courses, which would simulate an actual case but wouldn't have real clients and all that. The simulation courses would focus on the lawyering skills, whereas what we would refer to as the live client clinics, or the actual client clinics, would focus on not just the skills but also on the doing of community service.

I think that's where the divergence took place over time, and even when I got here, that divergence was obvious. We tried to coordinate it all so that a student could do both of those things, could take simulation courses that would improve their skills in an environment that's controlled, and also offer clinical opportunities where they could represent clients, do community service, and hone their skills in an uncontrolled environment, so to speak. That's the main divergence I see in the clinical program.

RL: Was that as much some kind of actual philosophical conflict? Did conflict ever arise over one way being better than the other?

WH: Oh, yes and no. I mean there wasn't conflict. We had discussions and debates about it. People had very definite views, and what came out of those debates among the clinical faculty and even the non-clinical faculty that were interested, was that indeed the simulation courses were better at doing certain things, teaching certain skills than the live client clinics, but the live client clinics were better at teaching other skills, whether you want to call them interpersonal skills or whatever else, responsibility skills. People would advocate for which one was a better way of doing clinical education, but in fact what happened is people realized that they complemented each other, that the best package again was for students to experience both those things.

Just to give you an example, I mean, to learn the skill of interviewing and counseling a client, it's really a skill that can be taught in a simulation course really well. It's a very successful course, I think, but to really fully understand the dynamics of doing a client interview and counseling a client, you've got to actually have a client, which will bring to the table all the kind of unpredictable emotional, cultural, everything else, issues that come up when you do anything with an actual client. To me, the best of all worlds was for a student to be able to experience both kinds of courses.

RL: If you had your druthers, do you think every student ought to participate in upper-class clinical education?

WH: Oh, I think every student ought to participate in at least a basic simulation course that covers all the lawyering skills that they're likely to experience when they're out there in practice. Indeed, that view prevailed for a number of years here in what we inartfully called the Lawyering Skills II class, which took students from client interview all the way through trial, was required of all students for many years here. Now, it's not required, but I think two-thirds, three fourths of the students probably elect it. I think it was a mistake to not continue to require it.

RL: We've touched on the questions of faculty status and tenure. What general statement might you make about the relations between the clinic and non-clinic faculty? Is there camaraderie, or is it strained? Are they well integrated, or do they tend to go their separate ways?

WH: I'll give you an honest answer, based on my observations, I can't say that they're necessarily accurate, is that there used to be a lot of camaraderie among all faculty, including the clinic faculty and all other faculty. They used to do a lot of things together academically and socially and everything else.

That has changed over the years to not be the case so much. I think the primary reason for that is that the full time clinicians, even though they got a tenure track and ultimately tenured, the faculty decided when they created the separate clinical tenure track to not extend all the accoutrements that non-clinical tenured faculty had in areas of faculty governance and in particular didn't have the right to vote on a lot of appointment issues. I know a lot of the clinicians, as a result of that, not all of them but a number of them, thought, "Well, if they're not interested enough about my opinion to let me have a vote on things, then I just won't bother to give my opinion."

That led to simply not showing up to contribute at certain events, and in my mind, that sort of snowballed to the point where some clinicians just felt that they weren't a part of the faculty, even though ironically, they were tenured. What's ironic about it is that back in the days when there wasn't tenure track and tenure for clinicians, there was much more camaraderie, and I don't understand that at all. I mean, I never have understood why that was back then and why it isn't now. It should have been just the opposite.

That's not true with regard to everybody. There are certainly some clinicians that are as involved in everything in the law school as they were before, but it's true as to some. It's sad, unfortunate.

RL: Probably for both sides.

WH: Both sides miss out.

RL: I think they do too.

I wanted to switch gears a little bit and ask about support staff and what people you've had contact with over the years, names and memories that you might have. What type of support staff there was when you came to the clinic and . . .



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TAPE 4A: SIDE b

WH: I do remember the support staff, and they were an integral part of the clinic, in part because they were the ones that always had contact with the students on a regular basis. The faculty weren't always around. Either they were in class, or they were off to court with a student, so the support staff were the ones that see the students. In fact, we would give the support staff certain authority with respect to making sure the students were checking in, so on and so forth.

When I first got here, there were two people. They both did secretarial work, although the more senior of the two also did clerical work and kept track of the case files and everything else and was the one the students checked in with on a daily basis. The more senior one was Nayda . . . what was Nayda's last name? I can't remember her last name sadly, and she had been there several years before I got here.

The other woman was Lucille Stevens, who had been there for a shorter period of time. They both had different personalities. Both were very delightful people that we all became close with. All the faculty became close to them, and the students certainly did. I think sometimes they were more popular with the students than the faculty.

RL: The joys of not having to give grades!

WH: Right, exactly!

After I came here, they both stayed here for a while. Nayda retired first, and I did keep in touch with her. She would drop by occasionally, and I would see her. Then, Lucille stayed on for many years after I first came here, and I still see her today. She retired, but she'll stop by the school, and I'll have lunch with her. Both were just delightful people.

They had their quirks. Nayda was very fond of organ music, you know, the kind of organ music that you might hear on the Lawrence Welk show, and she played the organ. I never went to her house, but apparently, students that did said that she had one room that was just taken over by a gigantic organ and all the music and everything else. She would record tapes of herself playing the organ and then bring them in and play them back during the work day. I mean, she was good, but you know there's a limit to how much Lawrence Welk music you can listen to.

RL: What did Lucille have to say about that?

WH: Lucille didn't like it.

RL: Were they in the same room?

WH: They were in the same room, very same area. It was like a reception area outside of all the faculty offices and everything in the clinic. So I'd get these complaints from Lucille saying she couldn't stand to hear another tape of, you know, whatever it was.

RL: Zippadee-doodah!

WH: Something like that, exactly, or polly-wolly-doodle or something, I don't know. That was one of the most difficult things as clinic director I ever had to work out.

RL: How did you work it out?

WH: One option was to have no music at all, which I think would have made some people happy too. It wasn't played loudly. It was background music. But Lucille actually played violin or cello at the USD orchestra, so she liked classical music. So the deal was struck that on certain days, she could play tapes of classical music, and other days, Nayda could play her organ music.

RL: Could you hear their music in your office?

WH: Not with the door closed.

RL: So you could at least shut it out.

WH: I could shut it out, yeah.

RL: Oh, that's funny.

WH: They were there when I first got here, and then Nayda retired before I stopped being clinical director, and we were able to get, because that job was so important to students and to doing sort of office clerical work, since we were running a law office with actual clients, we were able to convince the dean to give us a bit more money to hire someone who was really experienced as a legal secretary.

We hired a woman names, I'm pretty sure her name was June Flowers. She was a very nice person, but she was a terrific legal secretary. I mean legal secretaries, if they're trained properly, can handle a lot of basic stuff for a law firm, even things that maybe they shouldn't do, like filling out certain forms, legal forms, they could do that. June certainly had that kind of competence and was a nice person, pleasant person to work with.

Sadly, she was so competent that she got hired away by a private firm. I think one of the students went into practice in a large firm and they were looking for a legal secretary, and the ex-student recommended June. June took the job and got paid twice as much at least as here. She didn't stay around too long.

Roughly about that time, I stopped being the clinic director, so I had less contact with the people that came in afterwards.

RL: What about in the dean's office, support staff in the dean's office when you were associate dean?

WH: I hired Ina Levy as my secretary. There were three secretaries in the dean's area. One was Sharon Coleman. I don't remember who the other one was when I got there. They were both secretaries to the dean, and then I hired Ina as my secretary and receptionist for the people that came in to see me. That turned out to be a wonderful relationship. I enjoyed working with her. Stayed friendly, she stayed at the law school until recently. I stayed friendly with her all throughout her time here. She just retired a year or two ago.

RL: I think last year, yes.

WH: She was very well educated. She had a master's in something, you know, useless like French history or something of that nature, but she was very well educated in very good schools back in Saint Louis, where I had worked before I went off to Boston, so we had a lot of connection about Saint Louis. We actually even, you know, six degrees of separation, we actually even knew of the same people in Saint Louis, so we were friends as well as colleagues. She was very bright. She was able to deal with students, I think, in a way that was very helpful to me, because Ina was able to understand academic rules and policy and everything else and even answer some of the questions that students had without having to come see me.

RL: Do you know anything about Ina's family?

WH: I know a lot about Ina's family. Again, I'm not sure how much I want to tell about it, because . . .

RL: I never knew if she had children.

WH: She had children. She has two sons, I think, maybe three. I met two of her sons. To make a long story short, there were lots of tragedies with her children. That's why I don't necessarily think she would want this put down on tape for the future, but there were lots of tragedies, very sad things that happened that she and I would talk about, so on and so forth.

RL: She was your secretary during the whole time that you were associate dean?

WH: Yes. Then when I stopped being associate dean, I'm not sure whether she stayed on in that office or not, but she was no longer assigned to me. She was not my secretary again for the remainder of her stay here.

RL: Who else have you worked with in that capacity?

WH: Oh, my goodness!

RL: Probably lots of people.

WH: Yeah, lots of people. I'm trying to think back as to who. You know, we have a lot of temporary people here. In my current office situation, there's two secretaries that act as sort of receptionist/secretaries, and they're outside a suite of offices for faculty, so one of those two was always assigned to me, and the other would be assigned to somebody else. We've just had a variety of people. I never really had very many long-termers, not like Ina or Lucille, so on and so forth.

There's one woman I do remember because she was so much fun, and she was extraordinarily competent, although I don't remember her last name. Her name was Shelley, and she was from Minnesota and was a very fun person. She loved all holidays, including Halloween. She would decorate everything out there with all kinds of Halloween decorations and, you know, things that when you walked by them, they laughed at you, this, that and the other. Every holiday, she had something like that.

She was also extraordinarily competent. She was a really, really good secretary. She did a lot of work for me. Once I started doing a lot of research and writing, and I wasn't doing my own typing back then nor my own word processing, she did a lot of that work for me, and her work was excellent. It was really good.

Perla was here, although not assigned to me, she was here at the same time, and they got along really well together. Then, when she left, there were a whole number again of sort of short-term people, and then Roanne was assigned to me, and Roanne was assigned to me for, I don't know, several years now, although she's in the process of retiring now too.

What happened is that as time went on, I got more proficient with using the computer and word processing, and particularly because some of the temps we had weren't very good and weren't around very long, it was a matter of necessity to some degree, and then I really enjoyed having that ability, so for the most part, for the last ten years, I haven't really asked anybody to do typing for me or anything else. Hardly ever, put it that way.

RL: Have you always been, since you were a member of the non-clinical faculty, have you always been in this particular suite of offices that we're in now?

WH: Since when I stopped being associate dean. As associate dean, I moved on to the dean's office area, but when I stopped being associate dean, I came to this current office, and I've been here ever since.

RL: As associate dean, you were in the office that Ginny Shue now occupies?

WH: Yes.

RL: So the configuration of the offices hasn't changed that much?

WH: Hasn't really changed in the dean's area, no.

RL: I don't know if you remember back again from the clinic days about what kind of library the clinic maintained.

WH: I do. We had our own clinic library that was officially the clinic library. It was just a couple of bookshelves in one of the rooms that the students would use as a workroom up in the clinic suite, up there. It contained a lot of the most basic statutes, for example, of the unannotated codes for California and a lot of the basic practical books, what referred to as the CEB books, Continuing Education of the Bar books, that are really very good practical how-to-do-it books, and it contained things like Witkin's. Witkin's is a multi-volume treatise that contains very basic review of the law.

You wouldn't use any of these things as your sole source of research, but for initial checking on legal principles or on statutes, so on and so forth, it was very handy. That was up in the clinic suite of offices and was updated and maintained on a regular basis.

RL: Was it updated by the clinic staff?

WH: It came out of the clinic budget, so it was updated by the clinic staff.

RL: And the Legal Research Center had nothing to do with the law library?

WH: But then, across the hall from where the clinic suite of offices is was something referred to as the faculty library, which I think I mentioned before, we used a lot because it had a lot of space in it, a lot of tables and stuff, we used it for work space for the students. It had quite a few bookshelves up there, quite a few stacks for shelves. It was a pretty complete law library that might be used by a practitioner. It had all the annotated California statutes. It had annotated U.S. Code, federal statutes. It had all the California reporters, that is to say the case law of California. It had at least the Supreme Court reporters for federal—no, I think it had all the federal reporters. It had a complete set of Federal 2d Reporter and Fed Supp. Reporters, as well as Supreme Court Reporter.

The idea of it was that the faculty wouldn't have to walk across the parking lot to go to the Legal Research Center to do a lot of their research for their research and writing. They could do it here. In fact, some faculty did use it. I used it quite a bit after I stopped doing clinical stuff, but the biggest use was by clinic faculty and clinic students, because if they had to do more involved research than the rudimentary kind of research you could do in the "clinic library," they could go over to the faculty library and really find most of the things that they would need. That no longer exists, sadly, because those people at the legal Research Center are just mean to us!

RL: Okay! I thought it became a classroom [laughter], but what do I know?

WH: In reality, it was not a good allocation of resources, to be honest. There was no reason to duplicate all those things for the faculty to have actual volumes of books over here as well as over in the law library. That became particularly true when the faculty got access to Lexis and Westlaw. If you want to look up a case, you wouldn't even go to the faculty library. You just get online and look up a case, so in all seriousness, it was not a good allocation of resources after a while, but it was really missed, particularly by the clinic. It made it a lot easier to have that workspace and do legal research if you were a clinic student.

RL: Right, and you point out one of the issues here, which is that the law school and the law library are two separate buildings, which is rare among American law schools, as far as my visits indicate. They're usually much closer, so that does create an issue.

Do you remember who was the law librarian when you came?

WH: The law librarian was Joe Ciesielski, who just had been there a short time before I got here but continued on until his unexpected, untimely death, I think it was from encephalitis.

RL: Yes, that's right. Did you know him much?

WH: Yeah, I mean, I didn't know him well, but I did know him, sure.

RL: What type of person was he? I never got the opportunity to meet him.

WH: Oh, he was a very friendly person, very outgoing, very religious. He was involved with the Catholic church and actually was involved with their, what is it called, their canonical court system for the Catholic church. He sat as a, I guess, a judge, I'm not quite sure what you call it, in that system, deciding such things as whether annulments should be approved or not, or making recommendations, at least. I'm not quite sure how that system works. Just a nice, outgoing, friendly guy.

RL: We started to talk a little about the introduction of computers into your work life. I guess my first question is were there any computers in the clinic by the time you left? That would have been like '83, so that was the very early, *very early* time of Lexis and Westlaw.

WH: Yeah, I don't remember. I don't think there was. Certainly the faculty that was there at the time that left, '83, the clinic faculty, few of them had much interest in computers—well, with one exception, Terry Player. Terry Player was always interested in computers, and she may have had a computer and used it for various things, but I don't think anybody else did.

The secretaries did not have computers at that point. My recollection is they were still using electric typewriters, memory typewriters. I don't think they had switched over to computers yet. I could be wrong about that.

In 1983, I don't remember exactly when we were all introduced to computers, but in 1983, computers were not that easy to use. They weren't very user-friendly. Somehow, it may have been after I became associate dean, The dean had a deal with Kaypro, which was a local manufacturer of computers--I don't think it exists anymore, but I could be wrong about that—to let the school buy computers very expensively for use by the faculty. I guess the theory was they wanted to break into the market, they wanted students to see the faculty using them, this, that and the other, so a number of us got these Kaypro computers that were supposed to be portable. They were in a metal box. They were physically in a metal box, like a metal suitcase, so when you wanted the keyboard, you'd unclip one side of the box where the keyboard would start to fold

down, and there was a screen there that was maybe five, six inches in diameter, so you couldn't see much in the way of lines on it.

The thing weighed a ton, an absolute ton, I don't know, thirty pounds, forty pounds. I don't know what it was. Like a suitcase, it had a handle on it, so it was supposed to be "portable." You could take it home if you wanted to, which of course, few people did, because it was so heavy to carry around.

The operating systems back then, or whatever it's called, were rudimentary. Windows didn't exist, and Apple was coming out, but Apple was a competing brand, so Kaypro used, I don't know, some kind of system that was just bizarre. It took you so long to figure out how to do things beyond just the basic typing that it was not worth it, so most people played rudimentary video games, which weren't even that much fun.

RL: They would have been mostly only useful for word processing.

WH: Word processing, yes.

RL: We hadn't really hopped onto the Internet yet.

WH: Right, exactly.

RL: Do you remember Lexis and Westlaw creeping into your life?

WH: Oh, yeah.

RL: How did that come about?

WH: That came about, actually I think, earlier than 1978. I was using Lexis, I think, in the mid-seventies. Certainly at Harvard they had Lexis. Lexis then was a stand-alone program. You had to go to a machine that was dedicated to Lexis or to Westlaw, not like today where you can call it up over the Internet, so you had to go to wherever there was a Lexis or Westlaw machine,

and you had to get training on it, which I think is still true to some extent today, but the use of it was a little more complicated, it seemed like, than it is today.

It certainly was very foreign to anybody that had been raised on manual research. The kind of research method you used with Lexis and Westlaw was very, very different, very foreign, and we were all very suspicious about it, that it was going to miss things, that there were things out there that weren't being found because the system wouldn't work right or whatever else. It was definitely there; it was just that it was very expensive, and nobody had much access to it, or if you did want access, you had to sign up for it because there were a limited number of machines, so on and so forth. Yeah, that existed even in 1978 when I came here.

RL: Do you remember really switching over to trusting those systems and relying on them? You talked about now it's silly to go, you know, walk over to the LRC to get a case.

WH: I don't remember when, you know, it was a process of evolution. I think certainly it was not just a reliability factor, I think it was also the access factor. Certainly when you could use the Internet to access Lexis or Westlaw, you didn't have to walk over to some station where they had terminals, they called them, that made a huge difference, so you could just do it from your office.

Then, the more access you had, the more you could devise research techniques through either Westlaw or Lexis that made you feel comfortable about what result you were getting back. The combination of those two things changed it.

I still use, I still go to the library for some certain purposes when I want to read a case. I still prefer to read it in print from an actual book than read it off a screen or a printed version off a screen that's just a typed page, so to speak, but I don't do that hardly very often any more. I mean I'm much more willing to do it from here, from my office.

RL: When you were a clinician, were there professional organizations that clinicians tended to belong to, you know, sort of the AALS of clinicians or anything like that? How did clinicians interconnect with people from other institutions?

WH: That's a good question. There was, and is now, a section of the double-A LS which is devoted to clinical education. It's the Clinical Education Section, and they have always been a very active section of the double-A LS. They have their own national conference once a year in addition to the annual conference that all professors go to.

Also, for a number of years, they may still do it now too, although I don't tend to see that so much, they had special conferences for clinical professors that would last for a week or two weeks, that were designed to help clinical instructors, teachers, learn more about how to improve their teaching and exchange ideas and so on and so forth. It was a very active section of the double-A LS, and many of us here at USD were very actively involved in that section when I first got here.

Two or three of us would go to these meetings, you know, the national meetings, make presentations. I was an instructor at one of the two-week meetings they had during the summer. Through that process, we really got to know a lot of other clinicians very, very well. It was a really nice network.



CONVERSATIONS IN LEGAL EDUCATION:

ORAL HISTORIES OF THE FIRST HALF-CENTURY OF THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Narrator: Professor Walter Heiser

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: April 18, 2006

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RL: Are there people that you still know that you met in that way?

WH: Absolutely. What was particularly fun and interesting about these double-A LS conferences and meetings was that there were a whole bunch of people that had entered clinical education, clinical teaching, at about the same time, between nineteen seventy-, let's say seventy-six to nineteen eighty, that window of time, I think the vast bulk of clinicians got into the profession of teaching, doing clinical teaching, and many of these people still teach today, some still doing clinical work today. They were all about the same age group. We had common interests. A lot of us had very similar backgrounds in terms of practice beforehand, and because the conferences tended to go on, we happened to see the same people, and some of them went on for several days, we really got to know each other. I became very friendly with a number of people that I've kept in touch with, that I see, now this is what, thirty years later almost, I see and spend time with whenever I'm either at their school or at the double-A LS conference, whatever else. They're just a nice bunch of people.

RL: Anyone in particular come to mind?

WH: I guess the one that comes to mind first, there's two that come to mind first that were at the, clinical teachers at the University of Hawaii. One fellow is John Barkai, who's still on the faculty there. The other was Jim, I forgot Jim's last name, I think Compass was his last name, and we became friendly through these various conferences. The two of them were on sabbatical one year. I was teaching in London. They came through London, and we all went off to Ireland together, my first trip ever to Ireland, and traveled around Ireland for ten days or so, so we really got to be very friendly. I still see John Barkai at all the double-A LS conferences. He is still a clinician, but he became associate dean and has been associate dean at the University of Hawaii for the last several years, but I still see him a lot.

Golly, there's Jim Klein from Toledo, a delightful person who's actually visited out here as a visiting professor at USD. I see him there. Graham Strong who I originally met at one of these clinical conferences and then lost track with him for a while, and then he had showed up here as a visitor several years later and was a visitor for several years in a row here, teaching evidence and other things. Roy Stuckey from South Carolina, just a whole bunch of them.

RL: You talk about these people coming in in the late seventies, early eighties. What do you see happening now in terms of clinical education, and of course, you're not doing that now, but do you think that there are younger, newer members of the profession that are seeking out that path?

WH: I'm sure there are, and when I still go to the clinical section meetings at the annual double-A LS conference, and I do see not only new faces but younger faces, so I assume that there are some new people coming, but not as many. I think the people that came on around the time that I did that were actively involved in the double-A LS, most of them got tenure one way or the other at their institutions, and some of them moved out of clinical teaching, but some stayed in clinical teaching, but one they got tenure, there was not as much turnover. My impression is that there just hasn't been as much hiring of full time clinicians in the past twenty years as there was before. Like I say, you don't see as many of the new faces.

I still see even people I didn't know well from years ago, I still see their names turning up as the speakers on most of the clinical sessions at the double-A LS conference. The same people tend to do it.

RL: I ask your colleagues during these interviews a general question about what advice they'd give to a beginning law professor, and you know, there are certain themes that recur, such as publishing and that kind of thing, so I'm going to change the question for you and ask you what advice you'd give to a beginning clinical professor if there are any.

WH: Depending on if they're full time and they're on tenure track, they're probably going to have to do some scholarship. That's the trend that's developed throughout legal education in the last fifteen, twenty years, so there might be advice that you'd give them about that just as you'd give to any new faculty member who's not a clinical clinician.

But in terms of the things that are more unique to clinicians about the courses they would teach, their interaction with the students, I guess the advice I would give them is more in the nature of getting a firm background as to what you're doing before you go about to do it. There's currently a lot of good material written in books about clinical education that could give you some good theoretical background into doing it.

Here's the advice I would give to new faculty is make sure you have some goal, some educational goal, for your classes and for your students beyond, you know this kind of reflects my belief I guess too beyond just the exposing of the students to practical skills or to clients or whatever else. Make sure you have in mind some goals and have thought about how you're going to achieve those goals, whether it's through simulation or whether it's through actual client clinics.

It's too easy for clinicians in particular, you get swamped, very time-consuming, labor-intensive kind of teaching, to get swamped with the day-to-day aspects of either supervising students or putting together a simulation course and executing it properly, so on and so forth. It's easy to get swamped with that and to lose track of the broader picture, that is to say, what is it that you want the students to have learned at the end of the semester or the end of the year? To

step back a bit and think about that and then structure your class, your interactions with students, your expenditure of time, structure that in a way that will accomplish those goals.

It's there where there's a lot of written material that can help you about that. Not everybody in teaching, whether it's clinical teaching or otherwise, has to have the same goal, educational goal, for their classes, but it's important I think, particularly important in clinical teaching is to have some goal that is more generalized than just teaching students how to handle these five cases that are now in front of them. The more generalized goal might be has this student become a really good client interviewer or a really good negotiator or a really good trial practice practitioner? Or it might be an interactional goal: Has this student learned how to listen to clients and not see facts through your eyes but through the client's eyes and so on and so forth?