

Innovative EDUCATION

By Russell Lovell, Professor at Drake University Law School



Defense Counsel during jury trial at Drake University Law School's First-Year Trial Practicum.

The First-Year Trial Practicum Engages Students in Actual Jury Trial

For the past seven years, experiential learning at Drake University Law School in Iowa has begun with the First-Year Trial Practicum (FYTP), a structured educational experience in which every student observes an actual jury trial in the spring semester of the first year at the Neal & Bea Smith Law Center courtroom on campus.

From jury selection through jury verdict, students are placed in an educational setting that includes daily post-trial small-group discussions led by seasoned attorneys, judges and clinical and classroom faculty. Lectures and practice panels focusing on the key legal and procedural issues set the stage and are interspersed during the trial week should there be an early adjournment.

Debriefing sessions are conducted after the conclusion of the trial. These have been a consistent highlight, with students questioning the lawyers who tried the case as to their strategies, and, following the verdict, questioning the jurors about the evidence, the rationale for their decision, and the effectiveness of the lawyers' presentations. Students have also enjoyed daily informal brown-bag luncheons with the presiding judge. The FYTP is the first leg of Drake Law School's experiential education pyramid: OBSERVATION – SIMULATION – PARTICIPATION.

The FYTP is not a moot court or mock trial experience. The case observed is an actual jury trial. It may be helpful to think of the FYTP as the laboratory component to the classroom. It is an unique academic enterprise in that it requires the collaboration of the academy and the judiciary. The Trial Practicum would be just

another law professor's idea gathering dust had Chief Judge Arthur Gamble and the judges of Iowa's 5th Judicial District been unable to envision its educational value or lacked confidence that the dignity and integrity of the trial, and court security, would be preserved. Although unique in the American law school world, the FYTP is not without precedent. The beginning course for future elementary and secondary teachers at many colleges of education is a practicum in which students are placed individually with and observe experienced classroom teachers.¹ During the first six months of the post-graduate pupillage program to become an English barrister, law school graduates observe actual trials.

The FYTP has featured four criminal cases and three civil cases. The state court system pioneered with us from the outset in 1998. Judge William Riley of the U.S. Court of Appeals for the 8th Circuit, sitting by special designation, tried our first federal case in 2003.

The week of the trial represents only the tip of the iceberg in terms of the preparation that goes into identifying the case and coordinating the week's programming. The greatest challenge is identifying cases that actually will go to trial, that can be tried within one week's time, that can be tried in the FYTP setting with the consent of the litigants and counsel, and that are educationally valuable (with a subject matter connection to the first-year courses). Case volume, or lack thereof, may preclude the FYTP at some law schools. Approximately 8,200 state court felony and civil case filings, on average, yield only 114 jury trials (.014) and 683 bench trials (.041) annually in Des Moines. We now screen 200 cases each year, in order to identify the case to be included and several

backup cases, and the courts have aided our efforts by “over-booking” trials the week of the FYTP.

While there is no question that the reality that a man’s liberty is at stake heightens students’ interest in the criminal trials, the FYTP creates an educational experience, not entertainment. Trials on Court TV, NBC’s “Crime & Punishment” and ABC News’ “In the Jury Room,” in contrast, are principally entertainment. Television selects cases because they are sensational or bizarre; the FYTP selects cases because they are typical. Hopefully, the televised cases will inform rather than titillate. However, the advent of these shows does not undercut the case for the FYTP as observation of snippets of a trial on television lacks the FYTP’s authenticity and educational depth, and cannot replicate the wonderful dialogue that occurs because of the students’ common FYTP immersion experience.

Dean David Walker captured the authenticity aspect of the experience when he wrote: “Students observe the behavior of the lawyers toward all participants in the process and consider aspects of civility They understand, they *feel*, the respect owed the court and the judge. They can sense the sometimes competing notions of the lawyer as an officer of the court and the lawyer as advocate.”

Drake’s First-Year Trial Practicum captures the educational synergy that is law in action, a concept pioneered by Roscoe Pound. It has also proven to be responsive to the indictment, popularized in the movie “Patch Adams,” that the first year of professional school education often is too detached from the patients or clients whom the students hope to eventually serve.

The FYTP teaches students about the trial as a story, about the judicial process and one of our

most democratic institutions, the lay jury, about lawyers and effective advocacy, and much more. It introduces students to law in action in a way that no textbook can ever capture, to lawyers and lawyering, and to fundamental values of civility, professionalism, and public service. ■

Notes

1. The education school practicum is distinct from the familiar student-teaching experience (during the student’s final semester), an experience analogous to the clinical (participation) experience afforded law students in their second and third years.

“Innovative Education” is a column focusing on innovative law programs at ABA-approved law schools. If your school offers a unique law program that you would like to share and write for this column, please contact Editor Joe Puskarz at puskarzj@staff.abanet.org for editorial consideration.

Associate Deans’ Conference Wrap-up

One hundred and forty new and experienced associate deans attended the two-day Associate Deans’ Conference in Englewood, Colorado, on June 3-6, 2004. Associate Dean Jack Pratt of Notre Dame Law School chaired the conference, which focused on “Managing the Law School, Managing the Job.”

The Law School Administration Committee planned sessions that included topics on managing people and resources, working with faculty, students and deans, fostering student leadership, academic support and other job management issues.

Dean Kent Syverud of Vanderbilt School of Law was the keynote speaker and opened the conference with a speech on the “Ten Most Important Associate Dean/Senior Manager Lessons I Learned the Hard Way.” Those lessons included:

- 1 What you do really matters.
- 2 Show people you believe in your school and its people.
- 3 What the dean does also really matters, but it matters mostly outside the building.
- 4 Your job [as associate dean/senior manager]

is to guide the norms and expectations of faculty, staff and students in the day-to-day work of the school.

- 5 Most of your days will be consumed by matters you didn’t anticipate when you walked into the building.
- 6 You don’t know who the responsible adults are until you’re in management.
- 7 Practice non-avoidance.
- 8 Some people won’t hear what you say no matter how clearly and often you say it.
- 9 Don’t send critical e-mail messages.
- 10 What your law school does really matters.

The first Plenary Session on Friday, June 4, “Holding Difficult Conversations,” was presented by Professor Scott Peppet at the University of Colorado School of Law, and Assistant Professor Tracy McGaugh of South Texas presented the second Plenary Session on Saturday, June 5, “Students Today, Students Tomorrow: Who Are They? The Millennial Generation.”