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## ACCLE Past, Present, and Future: Reflections from ACCLE's Board Presidents

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## ACCLE Past, Present, and Future: Reflections from ACCLE's Board Presidents

MARTHA SIMMONS, DOUG FERGUSON, LISA CIRILLO & GEMMA SMYTH

OVER THE YEARS SINCE ITS INCEPTION, the Association for Canadian Clinical Legal Education (ACCLE) has benefitted from the dedication of presidents who have volunteered their time to promote and advance the aims of the organization. From a nascent association, which sought to bring together individuals working in clinical legal education programs, ACCLE has grown to be a significant voice in the debates about the future of legal education and on access to justice. Its annual conferences continue to create connections among faculty, clinic directors, clinicians, clinic students, and others to learn from one another and benefit from shared experience. ACCLE has contributed to various policy discussions, including those regarding student participation in family law representation, national conversations about the future of articling, and most recently the debates regarding the Bill C-75 amendments to the *Criminal Code* and access to representation in criminal matters. In order to document the history and progression of the organization, the three presidents who have taken on this role over the last ten years agreed to be interviewed about their perspectives.<sup>2</sup>

In this interview, the three presidents reflect on the past, present, and future of ACCLE. What was the impetus for ACCLE's formation? What were some of the organization's early struggles? What role has ACCLE played in the development of clinical legal education over the past ten years, a time during which a sea change has taken hold in clinical legal education in Canada?<sup>3</sup> What are the future challenges facing ACCLE and what is its potential to meaningfully impact the development of clinical legal education more generally?

**Martha:** *Thank you all for agreeing to spend some time reflecting and sharing your thoughts on the past, present, and future of ACCLE. Doug, let's begin with some questions about the beginning of ACCLE. What drove you to launch ACCLE as an organization?*

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<sup>1</sup> Prior to being admitted to the Bar, a candidate must complete a period of "articles." The length of the articling period varies across provincial and territorial jurisdictions but ranges from six to twelve months. During the articling period, the candidate works under the direct supervision of a qualified lawyer. Ontario has, in recent years, introduced the Law Practice Program as an alternative to articling. For candidates who pursue this route, they undertake a four-month course, as well as a four-month work placement.

<sup>2</sup> Doug Ferguson was ACCLE's first president and founder, and is director of Community Legal Services, a Legal Aid Ontario (LAO) funded clinic at Western Law. Lisa Cirillo is director of Downtown Legal Services (DLS), a LAO funded clinic affiliated with the University of Toronto's Faculty of Law. She was ACCLE's president from 2013 through 2017. Gemma Smyth is a professor at Windsor Law, and was previously the academic clinic director for two clinics, and director of a mediation clinic. She is currently ACCLE's past president. The interviewer, Martha Simmons, is a professor at Osgoode Hall Law School and has been the Director of Osgoode's Mediation Intensive Program and Mediation Clinic since 2012. She was ACCLE's vice president and has transitioned to the role of president in 2019.

<sup>3</sup> For a comprehensive review of the development of Canadian clinical legal education and its associated challenges, please refer to the articles in volume 23 of the *Journal of Law and Social Policy* on clinical legal education, including Shelley Gavigan & Sean Rehaag, "Poverty Law, Access to Justice, and Ethical Lawyering: Celebrating 40 Years of Clinical Education at Osgoode Hall Law School" (2014) 23 *J L & Soc Pol'y* 1.

**Doug:** Before ACCLE, we in Ontario had regular meetings amongst the Student Legal Aid Services Societies (SLASS) clinics.<sup>4</sup> After attending a Legal Aid conference that Donna Franey<sup>5</sup> organized at Dalhousie, it struck me that student clinics should come together as a national organization. That was 2008 or early 2009. And after that, I started organizing a conference.

In order to fund this initiative, we wrote an application for funding through the Law Foundation of Ontario and other provincial branches of Law Foundations. We submitted an overall application for funding to all the Foundations at once. The other thing I tried to do was to make that initial conference big. I wanted big names, to attract interest. Looking back at the agenda, we had an outstanding group of people presenting.<sup>6</sup> At that conference, we had an initial meeting to agree that we would form an association and landed on the name, Association for Canadian Clinical Legal Education (ACCLE).

**Martha:** *What was your vision for ACCLE upon its inception? Who or what was most influential in guiding ACCLE in its early years?*

**Doug:** In the beginning, I saw the mandate of ACCLE as being three-pronged, first of all to bring together the clinics and give us a voice.<sup>7</sup> We really had no voice nationally. Second, we could also share best practices and share research. At the time, the United States was much further ahead in terms of research on clinical education. I was told that half of the clinicians in the United States were members of faculty and of course that is not the case in Canada.<sup>8</sup> The third prong of the rationale for ACCLE was access to justice.

In developing ACCLE, I was influenced by the Carnegie Report.<sup>9</sup> In fact, one of the authors of that report, Judith Wegner was a speaker at the first conference.

**Martha:** *What barriers or challenges did you face in the early years of ACCLE?*

**Doug:** We as a board didn't really know each other and we had to build up relationships among board members. Money was not really an issue because we received a significant grant from the Law Foundation of Ontario but we still had to find our way. We were all new at this and we had

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<sup>4</sup> Student Legal Aid Services Societies (SLASS) are funded, in large measure, by Legal Aid Ontario (LAO) and operate out of Ontario's seven law schools, namely Queen's Legal Aid, Community Legal Services (University of Western Ontario), Community & Legal Aid Services Program (Osgoode Hall Law School), University of Ottawa Community Legal Clinic, Lakehead University Community Legal Services, Downtown Legal Services (University of Toronto) and Community Legal Aid (University of Windsor).

<sup>5</sup> Donna Franey is a professor at Schulich School of Law, Dalhousie University and the director of the Dalhousie Legal Aid Clinic.

<sup>6</sup> The program for the first ACCLE conference is included as Appendix A.

<sup>7</sup> The clinical legal education takes various forms. While the law school-based clinics (such as the SLASSs in Ontario) remain the dominant model for clinical legal education, a large number of law faculties have also established clinical programs involving placements with community-based clinics, non-governmental organizations, firms, and other organizations.

<sup>8</sup> Data on the status of clinicians and clinical professors in the United States can be found at the Centre for the Study of Applied Legal Education. The most recent survey results can be found, online: <[https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d8ad42af693e72957d\\_Report\\_on\\_2016-17\\_CSALe\\_Survey.pdf](https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d8ad42af693e72957d_Report_on_2016-17_CSALe_Survey.pdf)> [perma.cc/L6B4-EZKR].

<sup>9</sup> William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (San Francisco, CA: Jossey-Bass, 2007).

to write a constitution, which Sarah Buhler<sup>10</sup> drafted. The first year or two was mostly spent dealing with that and getting the conferences arranged.

Another larger challenge that impacted us in the beginning and probably still impacts us is that the legal community exists in silos. We have legal education over here, the Law Societies over here, we've got the judiciary over here, and the Canadian Bar Association and other groups like that over here and there is not enough coordination. And I think legal education and access to justice would be much better off if there was more cross pollination.

**Martha:** *What were a few highlights of ACCLE's early years? What were you most proud of?*

**Doug:** I was very proud of the first conference and of the attendance we had. I was surprised how good our attendance was. I was proud of the quality of the speakers we had. We had Justice Cromwell as well as the president of the Federation of Law Societies, John Campion. And I was also just proud that we survived. The board worked very hard to ensure that. We had a great board.

I saw my term as president as getting ourselves up and running and getting established and Lisa took us to the next level and then with Gemma too. We are now getting into advocacy, which is something that I had hoped we would have an opportunity to do at some point down the road when an issue arose.

**Gemma:** I remember too, in the very beginning, there being some debates around the role of access to justice and social justice in ACCLE's work, particularly how central it should be to the work of clinics.<sup>11</sup> I think there were competing understandings of justice—which is not unusual—and discussion about the role of education versus service to clients and community, and the role of systemic advocacy. At the time it felt very heightened but now, looking back, it was essential to have those conversations because access to justice and social justice have become core mandates of ACCLE. I don't think we can take for granted that we have a shared view that access to justice and social justice, widely defined, are central in what we do.<sup>12</sup>

**Lisa:** And I think some of that transition and those conversations and growth were also going on in our own clinics at the time. I think of the way Downtown Legal Services (DLS) operated when I joined the clinic in 2001 as a staff lawyer versus the way it runs now. It is a very different place for all kinds of reasons but I think one of the most fundamental shifts has been a recalibration of that education and service mandate.<sup>13</sup> We are not alone in this—I have seen this shift occur across our sister SLASS clinics in Ontario. And I think that this transition has been inspired and nurtured by ACCLE. Through ACCLE, we had the opportunity to come together with clinicians and academics across the country who were engaged in this work. I think back to our very first conference in October 2010 and being absolutely dazzled the first time I heard Sarah Buhler speak about her vision for Community Legal Assistance Services for Saskatoon Inner City (CLASSIC)

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<sup>10</sup> Sarah Buhler is a professor at College of Law, University of Saskatchewan. Prior to that, she served as the Executive Director and Supervising Lawyer at Community Legal Assistance Services for Saskatoon Inner City (CLASSIC).

<sup>11</sup> Here, it refers to law school student clinics.

<sup>12</sup> However, social justice and access to justice are not central to all Canadian clinical legal education programs. Many of the clinical programs offered in law schools across Canada are expressly committed to social justice, such as SLASS clinics in Ontario.

<sup>13</sup> For an example of how legal clinics evolve to give students a unique opportunity to learn real-world legal skills while providing a critical service to its clients, see Hilary Evans Cameron, "The E-Team Project: A Teamwork Approach to Clinical Legal Education" (2014) 23 J L & Soc Pol'y 30.

and her approach to clinical pedagogy.<sup>14</sup> When I followed up with her after the conference, she was very kind and generous about sharing her materials. ACCLE gave us the opportunity to talk to each other about how to balance client service and student education on both a highly theoretical level and also a practical level. What does that look like on the ground? What are the trade-offs? What have you learned? I think the clinic today offers our students a much deeper and richer educational program and as a result, our client services have also improved. We are a lot more intentional and thoughtful in our work. We have moved beyond the simple idea of “learning by doing”—which I think was the operating ethos of our clinics for a long time—to a recognition that you can also learn really “wrongly,” that is, students can pick up very bad lawyering habits, if we don’t have sufficient supervision and support in place. Speaking on behalf of DLS, I really think the clinic has been immeasurably enriched because of the ACCLE community.

**Gemma:** That is really important, Lisa, and I echo so much of what you have said in my own various contexts. I also have noticed a shift in charity model thinking. I remember being in law school working at the clinics and the student narrative was that we were doing clients a huge favour. I think that narrative still remains in some places, but I think generally it is much more client- and social justice-centred. That shift comes out of the early client-centred learning literature of course, but is only put into practice when a community of clinicians buys in. This renewed understanding of both justice and education being central to the work has been so impactful to the theory and the practice of clinical legal education in Canada, I think.

**Doug:** Very well said. The other change we have seen is that we are now a presence on the national scene. We have influence. People look to us and it gives us credibility with our law schools and with the legal community as a whole.

**Lisa:** I wonder if we have influence yet. I think you are right that we have a bigger presence. We certainly are getting invited to the table. Do we have influence? I think that is yet to be seen.

**Gemma:** I think ACCLE has greater influence in legal education. We do get called often about new law school clinics starting up, we give advice and support to clinicians and new programs. In terms of policy writ large, at a provincial or federal level, I am not sure.

**Doug:** The point is, we are there. We went to the House of Commons Committee; they didn’t listen to us, but we were there.<sup>15</sup> Just being at the table is some influence. It may take a while for it to show up but I feel good that we were there.

**Lisa:** I agree too. Even when we look at who is coming to our annual conference. Our audience has expanded beyond our core constituency and in the last few years, we have had consistent

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<sup>14</sup> CLASSIC is a poverty law legal clinic in Saskatoon. CLASSIC has both a walk-in advocacy clinic and a legal advice clinic and students at the University of Saskatchewan College of Law can participate in a clinical program at the clinic.

<sup>15</sup> ACCLE member Jillian Rogin appeared before the Standing Committee on Justice and Human Rights on behalf of Ontario student clinics, arguing for amendments to Bill C-75. For more detail see this volume, Rogin et al, “ACCLE and Bill C-75: Implications for Student Legal Clinics & Communities in Canada.”

participation from both the Federation of Law Societies of Canada<sup>16</sup> as well as some of provincial Law Societies. So regardless of whether we are influencing their thinking, at least they want to know what we are talking about and what our ideas are. The Law Society of Ontario reached out to us when they were working on their Bill C-75 submissions to ask what positions we were taking on various issues.<sup>17</sup> I don't think that would have happened historically, so we are at least on people's radar. Let's put it that way.

**Gemma:** I also wonder whether ACCLE's presence or profile-raising in law schools has resulted in more hiring in clinical and experiential learning. Doug, you were talking earlier about how some US schools hire clinicians on as full-time faculty and I think that is happening in Canada too more frequently. I think it reflects a changing understanding of the role of law schools and legal education and the role of clinics. We are also building on work by clinicians and academics in Canada who have been collectively doing this work for decades. And we also now have a generation of professors who understand clinics to be central to the work of legal education. Many of them participated in the clinic and consider it a natural part of learning. It is hard to connect ACCLE definitively to what I think is a significant uptake in clinical and experiential learning,<sup>18</sup> but I am confident it has had meaningful impact, especially to connect people and break them out of their silos.

**Lisa:** I am also thinking about the advocacy work going on at some university clinics about the situation of clinic staff. I think these advocacy efforts have been informed by ACCLE's policy committee's work last year with the survey of clinicians.<sup>19</sup> This research gave us all a clearer picture of the situation of clinicians and clinics across the country. It legitimized people's concerns and I think, emboldened them to take these forward in a more assertive way.

**Martha:** *Lisa, you took over from Doug. What was your vision for ACCLE during your presidency?*

**Lisa:** I think it would be a stretch to say that I had a vision for the organization at the time Doug passed the baton to me in 2013. I think the honest answer is that I don't think I went into it with a vision other than that we had to run a conference every year. I came in with a lot of gratitude to Doug, and to Donna [Franey], Sarah [Buhler] and Marian [MacGregor]—who did so much of that

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<sup>16</sup> The Federation of Law Societies of Canada is the national coordinating body of the fourteen provincial and territorial law societies.

<sup>17</sup> For a detailed discussion of the reforms introduced through Bill C-75 see this volume, Rogin et al, "ACCLE and Bill C-75: Implications for Student Legal Clinics & Communities in Canada." In short, Bill C-75 created the possibility of ending the ability of students to represent an accused person in summary conviction matters, a form of representation that has been a mainstay of student clinics for decades.

<sup>18</sup> Experiential learning is a broad concept, and it does not necessarily have to do with clinical activities. See e.g. Gemma Smyth, Samantha Hale & Neil Gold, "Clinical and Experiential Learning in Canadian Law Schools: Current Perspectives" (2018) 95:1 Can Bar Rev 151. The authors defined "experiential" as "any course that had a significant experience using an active learning and reflective approach simulating an experience associated with the practice of law, widely defined" (at 156).

<sup>19</sup> In 2018, the ACCLE Policy Committee surveyed clinicians and academics working in clinical legal education among its membership. The concerns raised by the respondents include funding, working conditions, job security, and pedagogical challenges.

infrastructure in the first year,<sup>20</sup> including the constitution and the idea of getting a member list together. That was critical. I remember that my big task as treasurer, before I became president, was to open a bank account. In year three, we got a bank account. That was a big deal—finally, we had arrived! And then the question was, what is next? And the answer was build, build, build. Every year, when we surveyed people after the conference, people would say that the community is the most valuable part of ACCLE. So we asked ourselves: how can we facilitate these connections?

We launched the website in 2012, which pushed us to think through how to promote the organization. Also, that is the year that we started membership fees because the initial grant was running out. And as the money was running out, we had to think about how to keep ourselves running. And so we introduced membership fees. Now that ACCLE had taken some baby steps, it was time to try and solidify the organization both in terms of membership and capacity. If I think back to my time as president, I think that was the biggest struggle. Do we want to do more than organize an annual conference and if so, how do we create capacity to do that? That question is not settled yet. It is something we still struggle with because this is an amazing group of people, not just on the board but in the community. When we get together, you can feel the energy in the room. People have lots of ideas about conversations they want to have, actions they want to take, advocacy they want to engage in, but the issue is how to harness that energy when we are not all together. It is such a challenge.

**Gemma:** And we have to consider that, when clinicians go back to their home base,<sup>21</sup> they are often, although not always, relatively marginalized and they are fighting, literally sometimes, to keep the lights on.

**Lisa:** Absolutely, and in that case, there is no bandwidth for anything else. For example, we have been talking about a listserv since 2014. And Gemma, you did it! It is amazing because again it facilitates those connections. So in my presidency, I guess that's what we tried to work on. Solidifying the organization in terms of its building membership and also its reputation.

One tangible sign that we were doing good work and that we were becoming a presence is the opportunities we have had to cohost conferences with other organizations. The invitation to co-host our 2016 conference with the International Journal on Clinical Legal Education (IJCLE) was a real turning point for ACCLE. That conference was so fundamentally different from anything we had ever done in terms of the numbers, who attended, the international element of the conversations we were having, and the opportunity to make connections across so many different countries and so many different programs. All of those elements were so much broader than other conferences. Yet, still, we shared lots of the same issues. I think that conference signalled to the broader world of legal education in Canada that ACCLE had arrived. It doesn't surprise me at all that having seen the quality of conference we could put on, CALT (Canadian Association of Law Teachers) approached to co-host with them in 2017, and then again in 2018.

**Martha:** *Gemma, what about you. Did you have a particular vision for ACCLE during your presidency?*

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<sup>20</sup> Marian MacGregor was vice president of ACCLE and the clinic director of Osgoode Hall Law School's Community and Legal Aid Services Program (CLASP). At present, she is the executive director of the Centre for Human Rights, Equity and Inclusion at York University.

<sup>21</sup> Clinicians generally refer to legal educators who work in clinical legal education programs.

**Gemma:** I was sort of in the same position of Lisa. Being the president seemed wildly implausible to me because I had watched Lisa and Doug and I didn't think I was really necessarily the right choice. But it has proved an invaluable opportunity, actually. I don't think I had a vision when I agreed to take the role but I became slightly obsessed with it. I had been on the board of CALT for some time and they are wonderful people doing important work, but I found myself continually frustrated that clinical legal education remained outside the core recognized mission of legal education. I found it endlessly frustrating to keep explaining how clinical and experiential education is different and essential, that it has its own unique pedagogies. ACCLE has always been a group of people who got what I was saying and who believed in similar things—who shared a vision of legal education even when they themselves were excluded from that vision.

I remain hopeful that collaborations between CALT, ACCLE, the Canadian Association for Legal Ethics (CALE), and other pan-Canadian organizations will bear fruit. Canada is too big with too few people to have all these siloed groups, in my view. In my short term I've tried to do a few things. One has been to take a place on the policy stage. And, of course, Doug and Lisa started that. Lisa did a presentation for the Federation of Law Societies a couple years ago which solidified a meaningful relationship. I think that collaboration will still lead to further developments.

In many ways my vision is similar to those articulated by Lisa and Doug—to increase sharing that occurs across the country, to help clinicians feel supported in the work that they do, even when they are kind of isolated from the rest of legal education, and my grand vision is to make clinical education a core part of how the methodology of legal education is conceptualized and delivered across the country. I know that is bold but I am convinced that the method is pedagogically sound, it is in the best interests of students and it is in the best interests of community members as well if it is well done. And I really hope that over my lifetime that is borne out somehow.

**Martha:** *How has each of you seen ACCLE grow during your presidency? What are you most proud of?*

**Lisa:** I think we have a rock solid community of people who support each other. They support each other personally and professionally. I cannot imagine being in the world of clinical education without ACCLE. It plays such an important role on so many levels and I am proud of that. I think about how much I have gained from ACCLE personally and also how my clinic has benefitted and I am hugely grateful to Doug for getting us going. We are just starting to do a lot of really important work.

**Gemma:** Lisa, you have done an unbelievable amount of work on the conference. Really thoughtfully designing it, making sure it runs smoothly, ensuring people get out of it what they are expecting, and consciously delivering it. You care about the feedback from people and that the method of the conference makes sense. Under your presidency, you consistently increased the number of people who attend. The conference is the most important part of what we do and if we don't do that well, then we alienate people and lose our core constituency. So, without you, the organization would literally not exist.

**Lisa:** That is very kind of you. Another thing I would say about how the organization has evolved is that we are continuing to improve the quality and engagement of our board. It's a sign of our developing maturity as an organization. Our thinking about the role of the board has evolved over time, from shoulder-tapping to a place where we are now talking about board competencies and board expectations. We have also come to recognize the importance of bringing the board together to build relationships. This work is ongoing but I think it improves the organization immensely if you have a committed, informed, and cohesive board.

**Doug:** I find myself thinking, what would clinical education be today if ACCLE wasn't here? I think that if you look at it from that direction, we have a significant accomplishment in what we have done over the last nine years.

**Gemma:** I think that, over time, clinicians have felt a part of a community and have felt emboldened that they are not an after-thought, that there is a method to what they do; there is a pedagogy and in fact in many cases a sounder pedagogy than in other law school classes. I think that has led to law schools hiring more in this area, recognizing the central role of clinics, increasing the number of clinics and increasing the creativity of the types of clinics that have opened. That is really impressive to me. I am not saying that is attributed to any one of us, but I do see a movement and a feeling that people aren't alone. I think that can be a very powerful thing.

**Martha:** *ACCLE has always had a very Canadian focus and mandate. What do you find unique about the Canadian landscape of Clinical Legal Education as opposed to American colleagues?*

**Doug:** Canadian clinical legal education has always been different. A decade ago, Americans were more into externships and we have always been more focused on clinics linked to the law schools. Also, in the United States, there are more clinical tenured faculty.<sup>22</sup>

**Lisa:** Another fundamental difference that I have seen that sharply divides the Canadian vision of clinical legal education from the American—casework volume. I went to one of the American clinical conferences when I was a staff lawyer at DLS in the early 2000s. The thing that stuck out for me most about the discussions at that conference was the dramatic difference between the American programs and ours in terms of caseload volume and program model. Back then, we were still running programs where the students were doing almost all of their work independently. It was pretty unusual for a lawyer to accompany students to court or tribunal and it was almost unheard of for them to sit in on interviews. In the American model—or at least this seems to be true for the majority of them—the supervising lawyers are with the students at every step. They are at every appearance and in every client meeting, either in the room or behind glass. The idea that we would have the time to observe every client meeting and then have a deep debrief afterwards, that students would be working on just one or two files throughout the year, was dramatically different than the way our programs were ran. And although, as we talked about earlier, we have done some rebalancing in terms of client service and student education, most of the Canadian law school clinics remain high volume programs. I think that creates a fundamentally different learning experience. Our mandate has always been that learning and client service are

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<sup>22</sup> For a comparative study of clinical legal education in Canada and the US, see *e.g.* Elizabeth A Keyes, David C Koelsch & Alejandro Posadas, “Clinical Legal Education: A (Brief) Comparison of the Evolving Structures and Pedagogy in Mexico, Canada and the United States” (2015) 3:2 U Det Mercy L Rev Online 1.

dual imperatives. I don't know if in the American context the reason the volumes are lower is because they put more emphasis on education.

**Gemma:** It is slightly shifting too because traditionally the lawyers and clinic directors in Canada have not been faculty members.<sup>23</sup> And as soon as you become a faculty member you get the benefits that are associated with that which includes more control over your work, but you also have a service, research, and practice agenda. I think part of the reason research has flourished in the United States is that many clinicians are also researchers. There is much more writing in the United States about people having trouble writing and practicing in a clinical setting, even with a relatively low volume. I know of some clinics in the US that do have relatively high volume as well. I think there is a particular flavour to how clinics are understood in Canada as very much separate from the law schools in a way that isn't as dominant in the US, at least from an outsider perspective.<sup>24</sup> Of course, we also have articling (at least for the moment). I wonder if that, ironically, puts more pressure on clinics to do volume and show benefit to the community rather than benefit to law students. If clinics aren't considered part of the core mandate anyway, whose interests will dominate? And maybe there are positive aspects to that, but I do think there is a highly symbiotic relationship between good student education and good client service. The history of legal education in Canada bears out this continual fight between the law societies and the law schools. We haven't seen the end of that debate. It will be fascinating to see how this plays out if and when articling becomes either less dominant or is abolished altogether.

**Lisa:** The other thing is that the American clinical community is massive in terms of numbers of programs and clinicians. It also includes simulation programs, where there are no live clients. We just had this discussion with our ACCLE board, about where we draw the line with clinical education. And everyone unanimously said that we draw the line with real clients. You have to actually be working with a real person.

**Gemma:** Law schools have done a lot about increasing their experiential offerings but I think serious issues remain about the disparity in workload, recognition, and working conditions. Again, if articling ceased to exist, we would be having a very different conversation very quickly. Going back to the comparisons with American legal education, I think the work done at CSALE<sup>25</sup> collecting data on clinical work, and the work of the Clinical Legal Education Association (CLEA) has put pressure on law schools to improve clinic working conditions.<sup>26</sup> That might be something ACCLE wants to consider in the future.

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<sup>23</sup> Lawyers and clinic directors have traditionally not been faculty members in the Canadian law schools. However, this has not been the case at Osgoode Hall Law School except for the SLASS program, Community & Legal Aid Services Program.

<sup>24</sup> See Keyes, Koelsch & Posadas, *supra* note 22 for the differences in clinical legal education programs between Canada and the US.

<sup>25</sup> CSALE is short for The Center for the Study of Applied Legal Education, which is a non-profit corporation in the US dedicated to the empirical study of applied legal education and the promotion of related scholarship.

<sup>26</sup> In addition to the efforts made by CSALE and CLEA, the accreditation requirements posed by the American Bar Association (ABA) has also strongly supported clinical programs in the United States. ABA standard 303 requires law schools to offer a curriculum that, among other things, requires students to complete one or more experiential courses totalling at least six hours. An experiential course "must be a simulation course, a law clinic, or a field placement." Standard 303(b) provides that, "[a] law school shall provide substantial opportunities to students for (1)law clinics or field placement(s)," online:

**Martha:** *In some ways, legal education has changed significantly over the last ten years, while in other ways it remains stubbornly resistant to change. Regarding legal education and clinical legal education, what do you see as areas to celebrate and what concerns you?*

**Gemma:** What concerns me is the stubbornness of the legal academy as it has been conceptualized over the last 125 years. The idea that practice skills are a-theoretical is still common. Perhaps that is a bit less prevalent, but some days I am disappointed that the needle hasn't moved more.

**Doug:** I think the reason for that is because of the whole university system. It is all about research and getting published and clinics do not lend themselves to that so there is nothing in it for faculty members.<sup>27</sup> If law schools would appoint academic directors across the board, that would help a lot.

**Gemma:** Maybe we haven't done a good enough job at introducing the idea that clinics can be done in all kinds of ways. It doesn't have to be the stand alone, high volume clinic as the only way to do this work. I am not saying we should use only lower volume American style clinics, but I do think there are opportunities for different styles of clinics. But I do worry about the fact that clinical legal education continues to operate on precarious labour, frankly. Some lawyers do very well doing clinical work and others really struggle. It's particularly a challenge because there is such a pay disparity between profs and clinicians. We have a lot of work to do to acknowledge the role of clinicians in the overall mission of the university. The status quo feels quite stubborn at times.

**Martha:** *What are some of the challenges for clinical legal education over the next five years (or we could say ten)? What role might ACCLE play in addressing these challenges? AND/OR What are some of the challenges facing the next generation of clinicians and "pracacademics" and what gives you cause for hope?*

**Lisa:** I think the research Gemma and Neil Gold did a few years ago, surveying law faculties across the country about their experiential and clinical programs, highlights that there are deep disparities in how the programs are situated within law faculties.<sup>28</sup> On the one hand, some faculties have made great strides in increasing the number and variety of clinical and experiential offerings and in integrating these programs within the broader law school curriculum. A clear sign of this is the creation of a number of new clinical faculty positions at schools like Windsor and the Allard School of Law in Vancouver. On the other hand, there are faculties where the programs are still seen as "add-ons" or "co-curricular," and certainly not of the same educational value as what goes on in traditional law school classrooms. And yet the reality is that in most cases, students are learning substantive law in their clinical programs. They are also learning the relevant procedural law. And they are developing a number of core legal skills and competencies such as written and oral advocacy, interviewing and client counselling, problem solving, and practice management ... this list could go on and on. The richness of these learning programs are unparalleled.

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<[www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2016\\_2017\\_aba\\_standards\\_and\\_rules\\_of\\_procedure.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf)> [perma.cc/9H8G-7BWT].

<sup>27</sup> There are many obstacles to research and writing while holding the position of Clinic Director, perhaps most significantly the competing demands on time.

<sup>28</sup> *Supra* note 18.

**Gemma:** That’s exactly right Lisa. We identified a number of key issues in that study that prevent clinical and experiential education from taking a place at the core of legal education. One is very basic: people do not share even a basic understanding of what clinical and experiential education means. There are also pre-conceptions that clinical learning is about “practice readiness” and nothing else. In some schools, there doesn’t appear to be a real understanding of clinical pedagogy, or how the Carnegie Report’s “third apprenticeship” of identity and purpose can be developed at a very deep level in a clinical context. Perhaps more importantly, I wonder if the will is present to engage with these issues that are quite outside the strict teaching of doctrine through a lecture/100 per cent exam format. It takes curricular leadership, thought leadership, and an appetite for change. Nonetheless, I have a lot of hope. Clinical and experiential education has come a very long way in Canada, especially in recent years. I believe there is an expanding footprint across the country that will supplement an already growing and successful movement.

**Doug:** Agreed. I feel the same way. I continue to hear from alumni that the clinic was the best thing they ever did in law school.

**Lisa:** I think the organization is going to do amazing things. It is the perfect time to have people in academic roles who can command a different kind of respect than we as clinic directors could in the role of president. And I think the policy work that was started under you, Gemma, is so important, to the organization and to our membership, and it will create new opportunities for advocacy work.

**Gemma:** There has also been an explosion in clinical and experiential legal education related research in Canada that is directly related to ACCLE’s work. There have been a couple of journals that have come out of conferences over the years, articles based on conference presentations. People are encouraged to publish or workshop their ideas. I am always skeptical about the extent to which traditional legal research can make a difference, but I think having that work publicly available, especially to people who like to get their information that way, I think it is invaluable.

**Lisa:** It is a huge benefit to membership. If you think about ACCLE at ten, we have talked a lot about how we can use this tenth anniversary conference to really expand the core ACCLE community and pick up people who have not traditionally been connected to us and to expand our networks in a thoughtful and intentional way.

Having a national organization also means that as a community, we are better connected to each other and better positioned to engage in collective action, when necessary. An excellent recent example of this is the incredible advocacy efforts that are going on, at both the provincial and the national level, to persuade the federal government to amend Bill C-75 to preserve the ability of law students to represent clients facing summary conviction criminal changes. ACCLE has played a leadership role in these efforts—making written submissions and appearing before the House Committee. In addition, the new listserv provides a forum for our membership to connect on this issue and share information about the efforts going on within local clinics and on a provincial level.

## CONCLUSION

It became clear, in discussing the past, present, and future of ACCLE, that we are indeed at a critical stage in clinical legal education in Canada. What the future will hold is yet to be determined. But one thing is certain: ACCLE will play a vital role in supporting clinics, in advocating for clinicians, and in promoting the importance of clinical pedagogy. Each of these areas, however, does not exist in a vacuum, making ACCLE's work ever more complex. Despite the relatively few law schools in Canada, there is significant diversity in how clinical and experiential legal education plays out in each faculty. The impact of regulators, law school policies, government funding, legal aid (or lack thereof), and other external factors means clinical legal education varies widely from province-to-province. As articulated by ACCLE's presidents, however, ACCLE now has a voice and has a seat at policy tables; it provides a forum for clinical legal educators across the country. Our next decade will undoubtedly bring increased attention to working conditions, standards, pedagogy, community-based justice concerns, and the role of clinical legal education in professional certification.

## Appendix A – Program of ACCLE’s First Conference

**Conference on Canadian Clinical Legal Education  
Let’s Start the Debate**

**Friday, October 22, 2010**

<b>Time</b>	<b>Activity</b>
8:30-9:15	<b>Registration</b>
9:15-9:30	<b>Welcome and Opening Remarks – UCC Room 315</b> <i>Ian Holloway</i> , Dean of Law, University of Western Ontario <i>Chris Bentley</i> , Attorney General of Ontario <i>Doug Ferguson</i> , Director, Community Legal Services, University of Western Ontario
9:30-10:30	<b>Introductory Keynote — The Carnegie Report and the Three Apprenticeships – UCC Room 315</b> <i>Judith Wegner</i> , Professor and former Dean, University of North Carolina School of Law, and co-author of the Carnegie Report
10:30-10:45	<b>Break</b>
10:45-11:30	<b>Plenary Keynote Speech 1 - The Status of Legal Education in Canada: Past and Present – UCC Room 315</b> <i>John Champion</i> , President, Federation of Law Societies of Canada
11:30-12:15	<b>Plenary Keynote Speech 2 - New Developments in US Law Schools - UCC Room 315</b> <i>James Moliterno</i> , Vincent Bradford Professor of Law, Washington and Lee University School of Law, Lexington, VA
12:15-13:00	<b>Lunch – on your own</b>
13:00-13:45	<b>Featured Keynote Speaker - UCC Room 315</b> <i>Mr. Justice Thomas Cromwell</i> , Supreme Court of Canada
13:45-14:45	<b>Small Group Sessions 1 — The Current Method of Legal Education</b> <ol style="list-style-type: none"> <li><b>1. What are the strengths and weaknesses of teaching law in a solely theoretical context? - UCC Room 315</b> <ul style="list-style-type: none"> <li>• Erika Chamberlain, Assistant Professor of Law, University of Western Ontario (moderator)</li> <li>• <i>Judith Wegner</i>, former dean of law, University of North Carolina</li> <li>• <i>Bruce Elman</i>, Dean of Law, University of Windsor</li> <li>• <i>Chris Axworthy</i>, Dean of Law, Thompson Roads University</li> </ul> </li> <li><b>2. Does the current system adequately prepare students for articling and private practice? – UCC Room 37</b> <ul style="list-style-type: none"> <li>• <i>Judith McCormack</i>, Acting Assistant Dean, Students, Faculty of Law, University of Toronto (moderator)</li> <li>• <i>John Champion</i>, President, Federation of Law Societies of Canada</li> <li>• <i>Alan Treleaven</i>, Director, Education and Practice, Law Society of British Columbia</li> <li>• <i>Robert Zochodne</i>, Chair, County and District Law Presidents Association</li> </ul> </li> </ol>

	<p><b>3. How does legal education compare to other professions? – UCC Room 67</b></p> <ul style="list-style-type: none"> <li>• <i>Marian MacGregor</i>, Director, CLASP, Osgoode Hall Law School, York University (moderator)</li> <li>• <i>Danny Young</i>, Acting CEO of the Ontario Society of Professional Engineers</li> <li>• <i>Dr. Carroll Iwasiw</i>, Professor, Arthur Labatt Family School of Nursing, University of Western Ontario</li> <li>• <i>Dr. Mark Goldszmidt</i>, Associate Director, Centre for Education Research and Innovation, Schulich School of Medicine &amp; Dentistry, University of Western Ontario</li> </ul>
14:45-15:00	<b>Break</b>
15:00-15:45	<p><b>Plenary Keynote 3 - Introducing and Implementing an Integrated Curriculum into Law School - UCC Room 315</b></p> <p><i>Michelle Anderson, Dean of Law, City University of New York</i></p>
15:45-16:45	<p><b>Small Group Sessions 2 - The Modern Law School Environment</b></p> <ol style="list-style-type: none"> <li><b>1. Building relationships between faculty and clinics - UCC Room 315</b> <ul style="list-style-type: none"> <li>• <i>Marian MacGregor</i>, Director, CLASP, Osgoode Hall Law School, York University (moderator)</li> <li>• <i>Elizabeth Adjin-Tettey</i>, Associate Dean of Law, University of Victoria</li> <li>• <i>Iwan Saunders</i>, Associate Dean of Law, University of Calgary</li> </ul> </li> <li><b>2. New experiential learning in law schools – UCC Room 37</b> <ul style="list-style-type: none"> <li>• <i>Gemma Smyth</i>, University of Windsor (moderator)</li> <li>• <i>James Moliterno</i>, Law Professor, Washington and Lee</li> <li>• <i>Michele Leering</i>, Executive Director, Community Advocacy and Legal Centre, Belleville, ON</li> <li>• <i>James Stribopoulos</i>, Associate Professor, Osgoode Hall Law School, York University</li> </ul> </li> <li><b>3. The role of the private bar and the bench in law schools – UCC Room 67</b> <ul style="list-style-type: none"> <li>• <i>Mitch Frazer</i>, Partner, Torys (moderator)</li> <li>• <i>Madam Justice Helen Rady</i>, Ontario Superior Court</li> <li>• <i>Lee Akazaki</i>, President, Ontario Bar Association</li> </ul> </li> </ol>
18:00-21:00	<b>Reception and Dinner</b>

**Saturday, October 23, 2010**

<b>Time</b>	<b>Activity</b>
9:00-9:45	<p><b>Plenary Keynote 4- Should Articling Be Abolished? Law Room 38</b></p> <p><i>Lorne Sossin, Dean of Law, Osgoode Hall, York University</i></p>
9:45-10:30	<p><b>Small Group Sessions 3 — Theory and Practice: Student Education and Training</b></p> <ol style="list-style-type: none"> <li><b>1. Teaching methods in clinical education courses – Law Room 38</b> <ul style="list-style-type: none"> <li>• <i>Margaret Capes</i>, Review Counsel, Community Legal Services, University of Western Ontario (moderator)</li> <li>• <i>Ken Margolis</i>, Professor and Director of the CaseArc Integrated Lawyering Skills Program, Case Western Reserve University</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>• <i>Karen Bellinger</i>, Review Counsel, Downtown Legal Services, University of Toronto</li> <li>• <i>Sarah Buhler</i>, Assistant Professor, University of Saskatchewan</li> </ul> <p><b>2. Students evaluation and file management – Law Room 36</b></p> <ul style="list-style-type: none"> <li>• <i>Sue Charlesworth</i>, Director, Queens Legal Aid, Queens University (moderator)</li> <li>• <i>Jennifer Cox</i>, Lawyer, Dalhousie Legal Aid</li> <li>• <i>Brian Rodenhurst</i>, Director, Community Legal Aid, University of Windsor</li> </ul> <p><b>3. Effective supervision of students in the clinical context – Law Room 51</b></p> <ul style="list-style-type: none"> <li>• <i>Marian MacGregor</i>, Director, CLASP, Osgoode Hall Law School, York University (moderator)</li> <li>• <i>Jason Voss</i>, Review Counsel, Community Legal Services, University of Western Ontario</li> <li>• <i>Maureen Mallett</i>, Executive Director, Student Legal Assistance, University of Calgary</li> </ul>
10:30-10:45	<b>Break</b>
10:45-11:30	<b>Plenary Keynote 5 - Designing a Law School Clinical Program – Law Room 38</b> <i>Ken Margolis, Professor and Director of the CaseArc Integrated Lawyering Skills Program, Case Western Reserve University</i>
11:30-12:15	<p><b>Small Group Sessions 4 - Serving Our Communities Better</b></p> <p><b>1. Public Legal Education – assessing needs and finding partners – Law Room 38</b></p> <ul style="list-style-type: none"> <li>• <i>Lisa Cirillo</i>, Acting Director, Downtown Legal Services, University of Toronto (moderator)</li> <li>• <i>Margaret Capes</i>, Review Counsel, Community Legal Services, University of Western Ontario</li> <li>• <i>Michele Leering</i>, Executive Director, Community Advocacy and Legal Centre, Belleville, ON</li> </ul> <p><b>2. Specialty clinics – Law Room 36</b></p> <ul style="list-style-type: none"> <li>• <i>Sarah Buhler</i>, Assistant Professor, University of Saskatchewan (moderator)</li> <li>• <i>Deborah Curran</i>, Senior Instructor, Environmental Law Centre, University of Victoria</li> <li>• <i>Renu Mandhane</i>, Director, International Human Rights Program, University of Toronto</li> </ul> <p><b>3. Assessing community needs – Law Room 51</b></p> <ul style="list-style-type: none"> <li>• <i>Dorion Brady</i>, Executive Director, CLASSIC, University of Saskatchewan (moderator)</li> <li>• <i>Joannie Jacob</i>, Director of Community Services, McGill Legal Information Clinic</li> <li>• <i>Steve Perks</i>, Assistant Clinical Director, The Law Centre, University of Victoria</li> </ul>
12:15-13:15	<b>Lunch – on your own</b>
13:15-14:00	<b>Small Group Sessions 5 - Managing Student Clinics: Best Practices</b>

	<p><b>1. Funding your clinic—sustainability with limited resources and budgets – Law Room 38</b></p> <ul style="list-style-type: none"> <li>• <i>Maureen Mallett</i>, Executive Director, Student Legal Assistance, University of Calgary (moderator)</li> <li>• <i>Brian Rodenhurst</i>, Director, Community Legal Aid, University of Windsor</li> <li>• <i>Lisa Cirillo</i>, Acting Director, Downtown Legal Services, University of Toronto</li> </ul> <p><b>2. Effective clinic models, policies, and procedures – Law Room 36</b></p> <ul style="list-style-type: none"> <li>• <i>Marian MacGregor</i>, Director, CLASP, Osgoode Hall Law School, York University (moderator)</li> <li>• <i>Sarah Buhler</i>, Assistant Professor, University of Saskatchewan</li> <li>• <i>Steve Perks</i>, Assistant Clinical Director, The Law Centre, University of Victoria</li> </ul> <p><b>3. Legal software in the clinical context – Law Room 51</b></p> <ul style="list-style-type: none"> <li>• <i>Doug Ferguson</i>, Director, Community Legal Services, University of Western Ontario (moderator)</li> <li>• <i>Sue Charlesworth</i>, Director, Queens Legal Aid, Queens University</li> <li>• <i>Karen Bellinger</i>, Review Counsel, Downtown Legal Services, University of Toronto</li> </ul>
14:00-14:30	<p><b>Canadian Association for Clinical Legal Education – Law Room 38</b> Approval of mandate and board selection</p>
14:30-15:00	<p><b>Closing Remarks — Where do we go from here? – Law Room 38</b>  <i>Doug Ferguson, Faculty of Law, The University of Western Ontario</i></p>